

Approved March 24, 1986
Date

MINUTES OF THE Senate COMMITTEE ON Agriculture

The meeting was called to order by Senator Allen at
Chairperson

10:12 a.m./~~xx~~ on March 19, 1986 in room 423-S of the Capitol.

All members were present except: Senator Doyen (excused)

Committee staff present: Raney Gilliland, Legislative Research Department
Arden Ensley, Revisor of Statutes Department

Conferees appearing before the committee: Chris Wilson, Kansas Fertilizer and Chemical Association
David McFarlane, Kansas Agriculture Aviation Association
Dale Lambley, State Board of Agriculture
Bill Fuller, Kansas Farm Bureau
Rich McKee, Kansas Livestock Association

Senator Allen called the Committee to order and ask staff to review HB 2646 for the Committee.

Mr. Gilliland explained that Substitute HB 2646 originally was a bill introduced by the Interim Energy and Natural Resources Committee to repeal K.S.A. 2-2457, but the House Agriculture and Small Business Committee introduced the substitute bill to encourage the notification of the State Board of Agriculture in order that an alleged case of pesticide damage could be investigated and also so that evidence of pesticide damage could be gathered in a timely manner.

The Chairman thanked staff and called on Chris Wilson to testify.

Ms. Wilson, a proponent, gave copies of her testimony to the Committee (attachment 1). Ms. Wilson urged favorable consideration of HB 2646 by the Committee.

During Committee discussion Ms. Wilson explained that by filing a damage by pesticide spraying report with the State Board of Agriculture that that report would serve as evidence in case of a lawsuit.

The Chairman thanked Ms. Wilson and called on David McFarlane to testify.

Mr. McFarlane handed copies of his testimony to the Committee (attachment 2). Mr. McFarlane, a proponent, expressed support for all members of the Kansas Agricultural Aviation Association for HB 2646 a bill which will offer limited protection against defenseless lawsuits while still protecting the rights of all to file civil lawsuits.

During Committee discussion Mr. McFarlane stated he felt the 60 day provision of the bill was too many days and that he would like to see the amount of days be less. He stated the 60 days is counted from the time of discovery of damage not from the date of the application of pesticide or herbicide. Mr. McFarlane explained in case of a lawsuit the applicators have been required to prove the damage was not done by them. He stated that there is no evidence of some sprays left after 2 days but evidence of some sprays can be found after 60 days. Mr. McFarland explained that herbicide spray stays as evidence up to 60 days but bug sprays may be gone in 2 days.

The Chairman thanked Mr. McFarlane and ask Dale Lambley for any comments he might like to make.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Agriculture,
room 423-S, Statehouse, at 10:12 a.m./~~XX~~ on March 19, 1986

Mr. Lambley explained that the 60 day provision was arrived at as an arbitrary figure because pesticide residue remains after spraying for various numbers of days.

The Chairman declared the hearing closed on HB 2646 and turned the Committees' attention to HCR 5037. The Chairman called on Bill Fuller to testify.

Mr. Fuller, a proponent, gave copies of his testimony to the Committee (attachment 3). Mr. Fuller expressed overwhelming support for HCR 5037 and encouraged the Committee to recommend approval of HCR 5037.

The Chairman thanked Mr. Fuller and called on Rich McKee to testify.

Mr. McKee gave copies of his testimony to the Committee (attachment 4). Mr. McKee urged favorable action by the Committee and ask the Committee to recommend passage of HCR 5037 by the full Senate.

The Chairman thanked Mr. McKee and declared the hearing closed for HCR 5037 and called for Committee action.

Senator Arasmith made a motion the Committee recommend HCR favorable for passage. Senator Montgomery seconded the motion.

Senator Gannon made a substitute motion requesting that HCR 5037 also be sent to the current director of EPA. Senator Karr seconded the motion. Motion carried.

Senator Thiessen made a motion the Committee recommend HCR 5037 favorable for passage as amended. Senator Montgomery seconded the motion. Motion carried.

The Chairman called for Committee action on HB 2646.

Senator Montgomery moved the Committee recommend HB 2646 favorable for passage. Senator Kerr seconded the motion. Motion carried.

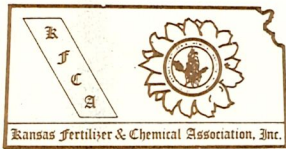
The Chairman called for approval of the Committee minutes for the Committee meeting of March 18.

Committee discussion followed concerning the fiscal note for SB 735. The discussion concerned possible federal funds that would make the funds for grants to be more than \$1.2 million as stated in the March 18 minutes. The amount should read \$1.5 million.

Senator Arasmith made a motion the minutes be approved with the correction made in the amount of the fiscal note. Senator Montgomery seconded the motion. Motion carried.

The Chairman adjourned the Committee at 10:53 a.m.

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KANSAS FERTILIZER AND CHEMICAL ASSOCIATION, INC.

Box 1392 • Hutchinson, Kansas 67504-1392 • 316-662-2598

STATEMENT OF THE
KANSAS FERTILIZER & CHEMICAL ASSOCIATION
TO THE SENATE AGRICULTURE COMMITTEE
SENATOR JIM ALLEN, CHAIRMAN
REGARDING H.B. 2646
MARCH 19, 1986

Chairman Allen and members of the Senate Agriculture Committee, I am Chris Wilson, Director of Governmental Relations of the Kansas Fertilizer and Chemical Association. KFCA is a voluntary, non-profit trade, professional, and educational association of over 400 members, representing the state's agricultural chemical and fertilizer industry.

Thank you for the opportunity to add our support to the Substitute for House Bill 2646. Following the Kansas Supreme Court ruling that K.S.A. 2-2457 was unconstitutional because it limited a person's access to civil action if he failed to file a report of pesticide damage, H.B. 2646 was introduced to repeal the section. The Substitute for H.B. 2646 repeals the section, but also retains the intent of the statute, which is to encourage the filing of reports when alleged pesticide damage occurs. As you know, when plant materials are damaged by pesticides, after a period of even 30 days, it is often impossible to accurately assess the damages and the reason they occurred. Thus it is important that when damages do occur that a report is filed and can be investigated as soon as possible to determine if in fact they are as a result of pesticide application.

*3/19/86 Sen. Ag.
attachment 1*

The Substitute for H.B. 2646 does not preclude the maintenance of any criminal or civil action, but provides that the failure to file a report of pesticide damages shall create a rebuttalbe presumption that the alleged damage did not result from the pesticide application. KFCA beleives this is a fair approach for all parties concerned and provides a strong incentive to the individual to file a report. The reports are critical in making just decisions of responsibility for damages.

We urge your favorable consideration of this bill.

STATEMENT OF
DAVID MCFARLANE
MEMBER OF THE
KANSAS AGRICULTURAL AVIATION ASSOCIATION
HOUSE BILL 2646
MARCH 19, 1986

Members of the Senate Agriculture Committee:

My name is David McFarlane, I am an aerial applicator from Baldwin City, Kansas and a member of the Kansas Agricultural Aviation Association. Kansas Aerial Applicators and I support HB 2646. We as aerial applicators deal with living property such as crops, trees and insects. Living things are subject to change in a short period of time due to changes in their environment. Most pesticides we apply are subject to changes due to sunlight, rain and natural chemical breakdowns. In order to determine the cause of a loss or damage to a living thing, time is very important. Every day that goes by after damage is noticed, physical evidence of what caused the damage gets weaker and could eventually become nonexistent. Without being notified in a timely manner of suspected damage, an applicator would not have an opportunity to collect physical evidence to defend himself.

Last year I experienced a good example of the importance of being able to collect evidence and evaluate suspected damage at the proper time. A landowner informed me that all of his walnut trees were dying near a field I had sprayed several weeks before. The landowner was demanding payment for damages. After close examination of the trees and surrounding area, evidence was collected that showed the damage to have been caused by a severe insect infestation and no traces of pesticide were found. The landowner was then satisfied that I was not responsible for the damages. If I would not have been notified until six months or a year later of the damaged trees there would have been very little if any physical evidence left to defend myself with, and in all probability, I would have had to pay for the walnut trees.

Being able to collect evidence at the proper time is also important in determining the extent of damage. How would it be possible to reach a fair value of damage to a crop if we were notified of the damage after the crop was harvested? The right to collect timely evidence of environmental growing conditions as the crop matures seems only but fair.

HB 2646 will provide Kansas pesticide applicators and farmers limited protection against defenseless lawsuits while still protecting the rights of all to file civil lawsuits.

*3/19/86 Sen. Ag.
attachment 2*

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PUBLIC POLICY STATEMENT

SENATE AGRICULTURE COMMITTEE
Senator Jim Allen, Chairman
March 19, 1986

RE: HCR 5037 - Urging the continued production
of leaded gasoline for use in farm equipment

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

* * * * *

Mr. Chairman and Members of the Committee:

I am Bill Fuller, Assistant Director of the Public Affairs Division of Kansas Farm Bureau. I am speaking on behalf of the farmers and ranchers who are members of Kansas Farm Bureau. We are PROponents of HCR 5037 . . . a resolution urging the U.S. Congress to allow the continued production of leaded gasoline for use in farm equipment.

Farmers and ranchers will be severely affected by the Environmental Protection Agency's proposed ban on leaded gas. Therefore, Farm Bureau policy states . . . **"We support the continued production and use of leaded gas that has the minimum lead content sufficient to operate those engines that require leaded gas."** We are asking EPA for an agricultural exemption.

The AFBF conducted a nationwide survey to gather facts (see attachment A). The response indicated farmers have significant numbers of older engines on hand, the type that require lead as a

*3/19/86 Sen. Ag.
attachment 3*

lubricant. On the average, each farm operator who responded has 10 engines on his farm that now run with leaded gas. Over half of those engines, 52 percent, were made before 1972. The survey indicates 84 percent of the gasoline used on farms is still leaded gas. Farmers estimate the cost of buying new equipment to replace leaded gas-burning equipment to average \$90,604 and \$7,577 per farm for large engines and small engines, respectively. If leaded gas is banned it will be questionable whether leaded gas-burning equipment will have any resale value at all. EPA's lead phaseout will raise the price of leaded fuel equal that unleaded, an increase of 5 to 7 cents per gallon. This will increase farmers' expenditures for gasoline by \$100 million to \$150 million annually (see attachment B).

Because of agriculture's concern, EPA, in cooperation with USDA, will be performing a testing program to evaluate the effect different levels of lead in leaded gasoline, and additives added to unleaded gasoline, will have on value seat recession. AFBF and KFB have participated in the development of this testing program (see attachment C). Farm Bureau attended the EPA called meeting on January 27, 1986 including tractor manufacturers and makers of additives. We are generally pleased with the plan, however, we are trying to get EPA to agree to an oversight committee and to test 7 instead of 5 engines.

In closing, we again stress our overwhelming support of HCR 5037 and urge its approval. I would attempt to respond to any questions you may have. Thank you!



The U.S. Environmental Protection Agency is demanding the phase-out of leaded gas. On July 1, 1985, EPA rules will

require that the lead in gas be reduced by 55%. By January 1, 1986 lead must be reduced by 91% and a total ban of leaded gas is expected by 1988!

Running unleaded gas through an older engine designed for leaded gas can seriously damage the engine unless expensive modifications are made.

Because many farmers are operating equipment which still requires leaded gas, the American Farm Bureau Federation is asking the Environmental Protection Agency for an agricultural exemption. Farm Bureau will be testifying on the exemption this summer.

WE NEED YOUR HELP! So we can document the impact a phase-out of leaded gas would have on farming and ranching, please take a minute to fill in the attached questionnaire, put a stamp on it and mail it to us **AS SOON AS POSSIBLE.**

Farm Bureau Leaded Gas Questionnaire

1. Of the total gallons of fuel used on your farm in farm equipment (trucks, tractors, mowers, etc.) what percentage would you estimate you use of each? This includes fuel purchased off the farm at a station for farm use.

Farm Unleaded Gasoline
Average: _____% _____ (gal) est. gallons

Farm Leaded Gasoline
Average: _____% _____ (gal) est. gallons

2. How much equipment on your farm was originally designed to burn leaded gasoline and is still burning leaded gasoline?

	# of Units		% of Time Units Run at 80 to 100% of Maximum rpm	Estimated cost to buy all this equipment new today
	1972 and newer	1971 and older		
Units 30 Hp & up (trucks, tractors combines, etc.)			%	\$
Units under 29 HP (weed mowers, chainsaws, auger motors, etc.)			%	\$

3. How much equipment on your farm was originally designed to burn no-lead gasoline and is still burning no-lead gasoline?
Number of Units 30 HP & Up _____ Number of Units 29 HP & under _____

4. How much longer would you expect your leaded gas-burning equipment to remain in service on your farm if leaded gas continues to be available? (Check one)
 _____ less than 2 years _____ 2 to 5 years _____ 5 to 10 years _____ use indefinitely

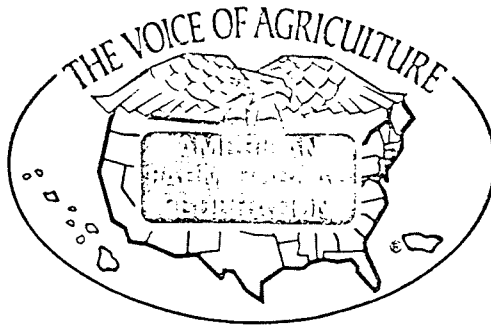
5. Could most of the lead burning equipment on your farm be modified to burn unleaded gas? (Check one)
 _____ Conversion could be accomplished.
 _____ Conversion would not be economically feasible.
 _____ Don't know.

6. Have you ever burned unleaded gasoline in an engine designed to burn leaded? (Check one)
 _____ It worked fine.
 _____ It would not burn quite right without adjustment to engine.
 _____ Didn't work at all.
 _____ I have never tried unleaded fuel in an engine designed for leaded fuel.

7. (The current EPA standard is 1.1 grams of lead per gallon)
 What amount of lead would be required for satisfactory operation of your lead burning engines? (Check one)
 _____ Don't know.
 _____ Need greater than 0.5 grams of lead per gallon.
 _____ Reduce allowable amount of lead to 0.5 grams/gallon.
 _____ Reduce allowable amount of lead to 0.1 grams/gallon (As EPA's new rule does)

8. How would the total elimination of leaded gas affect your farming operation? (Check one)
 _____ It would really disrupt our fuel situation.
 _____ It would cause a few problems, but we would cope.
 _____ It wouldn't bother me at all.
 _____ Other _____

9. What is your preferred method for keeping leaded gasoline available to agriculture?



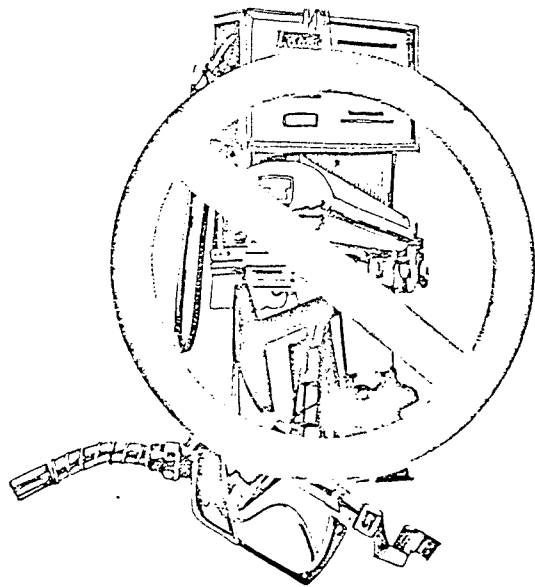
PLACE
STAMP
HERE

Return to:

AMERICAN FARM BUREAU FEDERATION
225 Touhy Avenue
Park Ridge, IL 60068

Attn: Natural & Environmental
Resources Division

**SAY GOODBYE
TO LEADED GAS !!??**



Results of FB survey on leaded gas

(3,166 responses)

1. Of the total gallons of fuel used on your farm in farm equipment (trucks, tractors, mowers, etc.) what percentage would you estimate you use of each? This includes fuel purchased off the farm at a station for farm use.

Farm Unleaded Gasoline	Farm Leaded Gasoline
Average: 16% (464 est. gallons/year)	Average: 84% (2,372 est. gallons/year)

2. How much equipment on your farm was originally designed to burn leaded gasoline and is still burning leaded gasoline?

Average/ farm	No. of units		% of Time Units Run at 80 to 100% of maximum rpm	Estimated cost to buy all this equipment new today
	'72 & newer	'71 & older		
30 HP & up	2.1	3.4	70%	\$90,604
29 HP & under	2.9	2.1	81%	\$ 7,577

3. How much equipment on your farm was originally designed to burn no-lead gasoline and is still burning no-lead gasoline?

Number of Units 30 HP & Up—0.8 Number of Units 29 HP & under—0.5

4. How much longer would you expect your leaded gas-burning equipment to remain in service on your farm if leaded gas continues to be available?

2% less than 2 years	10% 2 to 5 years
39% 5 to 10 years	49% use indefinitely

5. Could most of the lead burning equipment on your farm be modified to burn unleaded gas?

5% Conversion could be accomplished.
56% Conversion would not be economically feasible.
39% Don't know.

6. Have you burned unleaded gasoline in an engine designed to burn leaded?

5% It worked fine.
12% It would not burn quite right without adjustment to engine.
8% Didn't work at all.
75% I have never tried unleaded fuel in an engine designed for leaded fuel.

7. (The current EPA standard is 1.1 grams of lead per gallon). What amount of lead would be required for satisfactory operation of your lead burning engines?

82% Don't know.
14% Need greater than 0.5 grams of lead per gallon.
3% Reduce allowable amount of led to 0.5 grams/gallon.
1% Reduce allowable amount of lead to 0.1 grams/gallon (as EPA's new rule).

8. How would the total elimination of leaded gas affect your farming operation?

70% It would really disrupt our fuel situation.
15% It would cause a few problems, but we would cope.
3% It wouldn't bother me at all.
12% Other.

9. What is your preferred method of keeping leaded gasoline available to agriculture?

32% Exemption.	28% No answer.
25% Keep at 1.1 grams.	15% Other.



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3-19

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

STATEMENT OF THE
KANSAS LIVESTOCK ASSOCIATION
TO THE
COMMITTEE ON AGRICULTURE
SENATOR JIM ALLEN, CHAIRMAN
RELATIVE TO
HCR 5037
SUBMITTED BY
RICH MCKEE
EXECUTIVE SECRETARY, FEEDLOT DIVISION
MARCH 19, 1986

Mr. Chairman, members of the committee, I am Rich McKee, Executive Secretary of the Feedlot Division of the Kansas Livestock Association. The Kansas Livestock Association has a broad base of farm and ranch members from virtually every geographic corner of the state. A significant portion of our membership owns or operates gasoline powered equipment.

The Kansas Livestock Association rises in support of HCR 5037. The KLA membership believes that additional government regulations that increase the cost of producing ag products is not needed at this time. This is especially true considering the extreme economic pressure our membership has been under.

Therefore, the Kansas Livestock Association urges you to consider favorable passage of HCR 5037 for consideration by the full Senate.

Thank you for the opportunity to present the opinion of the Kansas Livestock Association membership.

3/19/84 Sen. Ag.
attachment 4