

Approved March 16, 1988
Date

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS

The meeting was called to order by Representative Clifford Campbell at
Chairperson

9:08 a.m. ~~pm~~ on March 3, 1988 in room 423-S of the Capitol.

All members were present except: Representative Solbach who was excused.

Committee staff present: Raney Gilliland, Legislative Research Department
Norman Furse, Revisor of Statutes Office
Marjorie Brownlee, Committee Secretary

Conferees appearing before the committee: Bill Fuller, Assistant Director, Public Affairs Division, Kansas Farm Bureau - PROPONENT
Wilbur Leonard, Committee of Kansas Farm Organizations - PROPONENT
Chris Wilson, Director of Governmental Relations of the Kansas Fertilizers and Chemical Association - PROPONENT
Joe Lieber, Kansas Cooperative Council - PROPONENT
Terry Shistar, Sierra Club - OPPONENT
Howard Tice, Executive Director, Kansas Association of Wheat Growers - PROPONENT

Representative Roenbaugh moved that the minutes of meetings held on February 23, 24, 25, 26, 29, and March 1, 1988, be approved. The motion was seconded by Representative Eckert. The motion carried.

Hearings were pronounced open on HB 3068 by Chairman Campbell. The first conferee on the agenda was Bill Fuller, Assistant Director, Public Affairs Division, Kansas Farm Bureau. He testified in support of the bill. (ATTACHMENT I)

Wilbur Leonard, Committee of Kansas Farm Organizations, spoke to the Committee in favor of this legislation. There was a question and answer period after his testimony. (ATTACHMENT II)

The third person to support this bill was Chris Wilson, Director of Governmental Relations of the Kansas Fertilizers and Chemical Association. In addition to her printed testimony, she made comments concerning contamination as a result of the use of the chemicals in question in this bill, saying the EPA has found such minute residues of pollution that they have deemed them as null and void. She commented that there are presently so many research and testing projects in the works in the field of fertilizers and chemicals that we won't probably recognize that they are just that in the future. Much of the research and testing is in the fields of non-toxicity and biodegradability of the products. (ATTACHMENT III)

Joe Lieber, Kansas Cooperative Council, wished to go on record as supporting the bill saying ".....basically, this bill does not protect people who do wrong but protects those who do not do wrong."

Terry Shistar, Sierra Club, spoke to the Committee in opposition to the bill. (ATTACHMENT IV)

Howard Tice, Executive Director, Kansas Association of Wheat Growers, asked to be recognized. In brief, he stated as follows:

"I hadn't planned to testify with regard to this bill but some thoughts have been raised in my mind and it has created a need for me to make a statement or two.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS

room 423-S, Statehouse, at 9:00 a.m./~~p.m.~~ on March 3, 1988

"What is running through my mind is the thought that the farmer is extremely vulnerable to harrassment from people who use 'alarmist tactics' to prevent the use of beneficial chemicals. Our technology has gotten to the point that we are measuring 'parts per billion' and 'parts per trillion.' These measurements have been defined as comparing the size of a postage stamp to the size of the entire five Great Lakes states.

"Anyone has to use a little common sense in looking at those kinds of discrepancies in size when looking at pollution. Some of these very, very minute amounts have been described as pollutants because of the way some of our laws have been applied. It puts the farmer in a very vulnerable position to the harrassment of people who 'don't know what they are talking about.' At least the farmer who is using beneficial chemicals is giving us a better food supply---a more consistent and healthful supply of food!

"This bill, I think, would give the farmer, and perhaps the commercial advocate, a little bit of a tool in trying to save the use of these chemicals that are important to the food supply of the United States of America."

Chairman Campbell closed the hearings on HB 3068.

The Chairman asked for commentary on final action for HB 2964. This is a bill asked for by the Kansas Board of Agriculture. When hearings were originally held on this bill, DeVern H. Phillips, State Sealer for the Weights and Measures Program, State of Kansas, proffered an amendment which was in essence a cleanup of language in the bill. This was briefly discussed by the members of the Committee.

It was also suggested by Norman Furse, Revisor of Statutes Office, that there were two technicalities of language which needed to be clarified in that bill.

Representative Roenbaugh made a conceptual motion to insert on line 27 after 'commodities'---"but shall not include hopper scales which are tested by the Grain Inspection Department." Representative Eckert seconded the motion. The motion passed.

Representative Teagarden made a conceptual motion to delete, on line 136, the word "capacity" which follows the word 'operate.' The motion was seconded by Representative Neufeld. The motion carried.

Representative Freeman moved that the two conceptual motions and the amendment from the State Board of Agriculture be accepted. Representative Beauchamp seconded the motion. The motion passed.

Representative Roenbaugh moved that HB 2964 be passed as amended. Representative Sallee seconded the motion. The motion carried.

Chairman Campbell then proposed that the Committee continue with discussion of HB 2965. This, too, was a bill which was recommended by the Board of Agriculture and an amendment was suggested by DeVern H. Phillips, State Sealer, at the original hearing for the bill.

A motion to accept the amendment proffered by DeVern H. Phillips to HB 2965 was made by Representative Neufeld. The motion was seconded by Representative Dean. The motion passed.

Representative Hamm moved that HB 2065 be passed as amended. Representative Teagarden seconded the motion. The motion carried.

Chairman Campbell adjourned the meeting at 9:58 a.m.

The next meeting of the House Agriculture and Small Business Committee will be on March 4, 1988, at 9:00 a.m. in room 423-S.

GUEST LIST

COMMITTEE: HOUSE AGRICULTURE AND SMALL BUSINESS

DATE: 03-03-88

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Wilbur Leonard	Topoka	Comm K Farm Org
Kenneth M. Wilke	Topoka	KSBA
MIKE BEAM	TOPEKA	Ks. LIVSTK. ASSN.
Whitney Damron	Topoka	McMillan Assoc.
John Blythe	Manhattan	Ks Farm Bureau
Terry Shistar	Lawrence	Sierra Club
Bill Fuller	Manhattan	Ks Farm Bureau
Joe Lieber	Topoka	Ks Co-op Council
Marvin E. Smith	Topoka	Legislature
Jim May	"	Ks Barbers Assoc
Dale Lambley	Topoka	KSBA
Mary Harper	Scott City	farmer
Chris Wilson	Topoka	KFCA
Howard W. Taylor	Hutchinson	KAWB
Arly R. Kirk	Topoka	KHS

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PUBLIC POLICY STATEMENT

HOUSE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS

RE: H.B. 3068 - Requiring reimbursement of costs when enjoining the proper use of registered agricultural chemicals

March 3, 1988
Topeka, Kansas

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

Mr. Chairman, and Members of the Committee:

My name is Bill Fuller. I am the Assistant Director of the Public Affairs Division of Kansas Farm Bureau. We appreciate this opportunity to express our **support** of **H.B. 3068**.

H.B. 3068 amends K.S.A. 2-3201 et seq., commonly referred to as the **"Agricultural Nuisance Lawsuit Act:"**

2-3201. Protection of farmland and agricultural activities; purpose. It is the declared policy of this state to conserve and protect and encourage the development and improvement of farmland for the production of food and other agricultural products. The legislature finds that agricultural activities conducted on farmland in areas in which nonagricultural uses have moved into agricultural areas are often subjected to nuisance lawsuits, and that such suits encourage and even force the premature removal of the lands from agricultural uses. It is therefore the purpose of this act to provide agricultural activities conducted on farmland protection from nuisance lawsuits.

The intent of H.B. 3068 is to discourage nuisance lawsuits and actions, yet allow the discretion of the court to prevail when the plaintiff sustains damages. **We believe individuals or groups who seek injunctions against the proper use of registered agricultural chemicals ... fertilizers, pesticides, herbicides and**

fungicides ... should be required to reimburse farmers, ranchers, county, state and federal governments for all costs when these legal actions are eventually shown to be unfounded or are overturned in a court of law. Using the product according to the label instructions should be considered "proper use."

Reimbursement should include:

1. Court costs;
2. Legal fees; and
3. Crop losses ... resulting from this legal action.

We support complete and detailed labeling. We do not condone misuse of agricultural chemicals. We believe agriculture needs to act responsibly and be proactive in protecting our environment and natural resources. We accept our responsibility. To assist farmers in reducing or preventing pollution from farming activities, Farm Bureau has developed, printed and is distributing the **"Self-Help ... Pollution Checklist."** We are cooperating by providing copies to other organizations and agencies who have indicated this is a valuable document; Kansas Cooperative Extension Service, Water Management Districts, Kansas Development of Health and Environment, etc.

These types of legal actions are becoming more prevalent nationwide as states become more urbanized. We believe this amendment to the "Agricultural Nuisance Lawsuit Act" will prevent unjustified financial burdens on Kansas agriculture. We appreciate this opportunity to express our support of H.B. 3068 and respectfully ask you to approve the bill! Thank you!

Self-Help...

POLLUTION CHECKLIST

...to assist farmers in reducing or preventing pollution from farming activities

- ✓ **Fill out this Checklist**
- ✓ **Review it once a year**
- ✓ **Protect our groundwater and environment**



**IS
YOUR
DRINKING
WATER
SAFE?**

 Kansas Farm Bureau and Affiliated Services

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

I. BASIC INFO ON YOUR WATER SUPPLY & TESTING, CLIMATE AND SOILS:

Which system provides drinking water for your family and/or livestock?

- ___ **PUBLIC** (EPA defines it as any system with 15 or more connections or serving 25 or more people, including most rural water districts.) Water testing and treatment required by federal Safe Drinking Water Act.
- ___ **PRIVATE** (includes your own system; bottled water; and systems with 14 or fewer connections or systems serving 24 or less people). Water tests generally not required except for dairies and for new wells.

Check the source/s from which your system draws its water:

GROUNDWATER

- ___ Shallow well, 0 to 50 ft.
- ___ Medium well, 50 to 150 ft.
- ___ Well deeper than 150 ft.
- ___ Artesian well
- ___ Spring
- ___ Don't know, but I intend to find out.

SURFACE WATER

- ___ Stream
- ___ River
- ___ Farm pond
- ___ Lake
- ___ Cistern

Is your water treated to kill bacteria? ___ Yes ___ No

If you have a well, is it dug, drilled, or sandpoint? _____

In what year was your well constructed? _____

Is your well properly grouted to prevent contamination from rainfall and animal contamination from seeping down along the well's casing? ___ Yes ___ No ___ Don't Know

Does your well's casing extend above ground level? (It should.)
___ Yes ___ No

Does your well have a water tight cover or seal? ___ Yes ___ No

WATER TESTING

Have you had your water tested within the last year?

Yes No

If No, what year did you last test it? _____

Did the test include any of the following? Check those that apply.

- | | |
|--------------------------------------------------|-----------------------------|
| <input type="checkbox"/> pH | Done by many state health |
| <input type="checkbox"/> Nitrate | labs for a small fee. |
| <input type="checkbox"/> Total Coliform Bacteria | Should be done annually |
| <input type="checkbox"/> Total Dissolved Solids | even if no obvious problems |
| | exist. |

- Pesticide Scan
- Heavy Metals (lead, arsenic, etc.)
- Purgable Organic Carbons (fuels, dry cleaning solvents, etc.)

CLIMATE and SOILS

What is the average rainfall for your area? _____ inches.

(Leaching potential increases as annual rainfall increases.)

Is the bedrock limestone? Yes No

Are your topsoils shallow to bedrock (less than 3 ft.)

Yes No

(Thicker top soils may still be a problem depending on soil type.)

Are your soils generally:

- Sandy (most likely to allow leaching into groundwater)
- Loams (medium leaching potential)
- Clays (least likely to allow leaching)
- High organic matter (peat or muck)
- Loam or some combination of those listed above?

How are any ponds or impoundments on your farm recharged?

- | | |
|---------------------------------------------|--------------------------------------|
| <input type="checkbox"/> rainfall/runoff | <input type="checkbox"/> stream |
| <input type="checkbox"/> groundwater/spring | <input type="checkbox"/> pumped well |

II. CHECK YOUR FARM'S POTENTIAL TO POLLUTE GROUNDWATER AND YOUR DRINKING WATER SUPPLY

DO YOU:

YES* NO

- Have limestone bedrock fairly close to the surface? . _____
(Cracks and sinkholes provide fast movement of runoff and pollutants to groundwater and wells many miles away.)
- Have sandy soils? _____
(Fertilizers and chemicals can move rapidly to groundwater.)
- Have groundwater tables within 30 ft. of the surface? _____
- Have a dug or sandpoint well less than 50 feet deep? _____
(These are generally old, not properly cased or grouted. Easily contaminated by bacteria, rodents and surface runoff.)
- Have a well pit? _____
(Easily contaminated by surface runoff, flooding and rodents.)
- Have an older submersible well pump? _____
(Many older pumps contain lubricating oil with highly toxic PCBs which could contaminate your whole water supply system.)
- Have lead water pipes or pipe joints soldered with lead? _____
(Lead is highly poisonous and could leach into drinking water, especially if the water is acidic.)
- Use your well for both livestock and household use? _____
(Potential for cross contamination exists.)
- Have livestock or poultry within 200 feet of a well? _____
(Bacteria, nitrates and disease may reach the well water.)
- Have a feedlot, manure lagoon or manure holding facility? _____
- Have a septic tank or soil absorption field within 200 feet of a well? _____
(Bacteria and nitrate contamination is possible.)
- Have a surface water drainage well? _____
(Runoff carries chemicals and manure directly into groundwater.)

DO YOU:

- Have a farm dump? _____
(Improperly disposed household and farm chemicals and animals.)
- Have an underground fuel tank? _____
(Average life of steel tanks is 40 years or less.)
- Put chemicals or fertilizers into your irrigation system? _____
(“Kansas Chemigation Safety Law” requires a permit and anti-pollution devices to prevent backflows into wells.)
- Use chemicals which are on EPA’s Priority Leachers List? _____
(If you do use them, try to find a substitute chemical which is equally effective but less likely to leach to groundwater. See list below)
- Apply sewage sludge? _____
(Possible problems with heavy metal buildup, disease and nitrates if not monitored carefully.)
- Dump or spread used oil to control road dust? _____
(EPA considers this hazardous waste, better recycle it.)

IF YOU CHECKED “YES” FOR ONE OR MORE OF THE QUESTIONS ON PAGE 3 AND 4 YOU SHOULD DEFINITELY BEGIN A PROGRAM OF ANNUAL WELL WATER TESTING!

*Also, if you checked the “YES” column you should try to reduce your system’s pollution potential and/or reduce your production costs.

EPA PRIORITY LEACHERS *(Current as of October 21, 1987 but could change)*

acifluorfen	gamma-chlordane	disulfoton	metribuzin DA
alachlor	chlorothalonil	disulfoton sulfone	metribuzin DADK
aldicarb	cyanazine	diuron	metribuzin DK
aldicarb sulfone	cycloate	endrin	nitrates
aldicarb sulfoxide	2,4-D	ethylene dibromide	oxamyl
ametryn	dalapon	ETU	pentachlorophenol
atrazine	dibromochloropropane	fenamiphos sulfone	pichloram
atrazine, dealkylated	DCPA	fenamiphos sulfoxide	pronamide metabolite,
baygon	DCPA acid metabolites	fluormeturon	RH 24,580
bromacil	diazinon	heptachlor	propachlor
butylate	dicamba	heptachlor epoxide	propazine
carbaryl	5-hydroxy dicamba	hexachlorobenzene	propham
carbofuran	3,5-dichlorobenzoic acid	hexazinone	simazine
carbofuran-30H	1,2 dichloropropane	methomyl	2,4,5-T
carboxin	dieldrin	methoxychlor	2,4,5-TP
carboxin sulfoxide	diphenamid	methyl paraoxon	tebuthiuron
chloramben	dinoseb	metolachlor	terbacil
alpha-chlordane		metribuzin	trifluralin

III. OFF-S. ASSESSMENT

(i.e., are other people's actions affecting your water supply?)

What is the approximate distance to the nearest neighbor's well?
(Express in feet or miles) _____.

Is that well: ___ shallow (less than 50 feet); ___ deeper than 50 ft.?

From a map or by observation, in what direction does the groundwater flow through your property? From the _____

_____ to the _____. (Check with local Soil Conservation Service or State Geological Survey if you don't know the answer.) Often times groundwater moves toward the nearest creek or river.

Place a check mark ✓ next to all **POLLUTANT SOURCES** within a 1-mile radius of your property where the groundwater seems to be coming from. (If your farm's water supply is surface water you may have to think in terms of many miles upstream.)

Pollutant Source	Potential Pollution or Problem	If You Suspect/observe these Problems, Request These Tests
___ Ag Areas	All problems listed in Part II	TC, NO ₃ , pH, TDS, Pesticide Scan.
___ Wetlands	Polluted recharge water.	Bacteria, NO ₃ ,
___ Forests	Pesticide use.	Pesticide scan.
___ Highways	Road salt, lead petroleum.	TDS, chlorides, sodium.
___ Housing	Septic, house and lawn chemicals.	NO ₃ , surfactants, Fecal Coliform & Streptococcus.
___ Fuel Tank	Gasoline, diesel.	Hydrocarbon scan.
___ City	Street runoff, fuels.	TDS, pH, Hydrocarbon scan.
___ Abandoned Wells	Contaminant runoff or seepage.	NO ₃ , Fecal Coliform & Pesticide scan

Pollutant Source	Potential Pollution or Problem	If You suspect/ observe these Problems, Request These Tests
___ Industry	Metals, fuels, solvents, acids.	TDS, pH, Hydrocarbon scan.
___ Food Ind.	Rinse water, cleaning solvents.	Bacteria, TDS, pH, Surfactants.
___ Injection Well	Brine, chemicals, & acids.	TDS, pH, acidity, Hydrocarbon Scan, Corrosion Index.
___ Mining	Acid, salts, minerals.	TDS, Fe, SO ₄ , pH, Mn, Al, acidity Corrosion Index.
___ Oil & Gas	Brine, sulfur & minerals	TDS, Na, Cl, Ba, Pb, pH, Strontium, Corrosion Index.
___ Golf Club	Pesticide and Fertilizer use.	NO ₃ , pH, Pesticide Scan.
___ Landfills	Chemicals of all sorts.	TDS, pH, COD, Volatile organics.
___ Sludge	Heavy metals, bacteria.	Bacteria, nitrate, metals.
___ Utilities	Seepage from storage ponds.	TDS, pH
___ Other		

TDS = Total Dissolved Solids, TC = Total Coliform Bacteria, NO₃ = Nitrates, Al = Aluminum, Fe = Iron, Cl = Chlorides, Mn = Manganese, Ba = Barium, SO₄ = Sulfates, COD = Chemical Oxygen Demand, Pb = Lead, Na = Sodium.

If there is any question in your mind about how any of the pollutant sources you checked above may be affecting your water supply then you should have your water tested. This gives you a baseline against which to compare water test results in future years.

Work closely with local government to deal with off-farm problems.

IV. FERTILIZER CHECKLIST

DO YOU:	Yes	No	Can Improve* Investigate	Does Not Apply
<ul style="list-style-type: none"> • Soil test every year, including 2 to 3 feet deep? <p><i>(Deep testing is important in drier climates to determine how much of last year's nitrogen fertilizer remains within the plant's reach.)</i></p>	_____	_____	_____	_____
<ul style="list-style-type: none"> • Have a nutrient "BUDGET" for your cropland? 	_____	_____	_____	_____
<ul style="list-style-type: none"> • Split nitrogen applications by plant growth stages? 	_____	_____	_____	_____
<ul style="list-style-type: none"> • Give fertilizer credits to manure or sewage sludge? 	_____	_____	_____	_____
<ul style="list-style-type: none"> • Give nitrogen credits for previous crops such as alfalfa, soybeans, clover, vetch and other legumes? 	_____	_____	_____	_____
<ul style="list-style-type: none"> • Band fertilizers where possible? <p><i>(Banding reduces the amount of rainfall that contacts the fertilizer as the rainfall percolates down through the soil. Banding also reduces the chances of weeds using the fertilizer before your crop does.)</i></p>	_____	_____	_____	_____
<ul style="list-style-type: none"> • Use goggles and rubber gloves around anhydrous ammonia? 	_____	_____	_____	_____
<ul style="list-style-type: none"> • Reduce use of nitrogen fertilizers in the fall? <p><i>(Spring use increases yield and reduces NO₃ leaching.)</i></p>	_____	_____	_____	_____
<ul style="list-style-type: none"> • Use N-inhibitors, such as N-Serve? 	_____	_____	_____	_____
<ul style="list-style-type: none"> • Set "Realistic" yield goals? <p><i>(10 percent higher than the average yield for the last 3 years is reasonable.)</i></p>	_____	_____	_____	_____

*Even if you checked the YES or the NO column you also should check the "Can Improve" if you think there's the slightest chance you could reduce your system's pollution potential and/or your production costs.

V. STORAGE OF AG CHEMICALS

DO YOU:	Yes	No	Can Improve* Investigate	Does Not Apply
• Know whether your fire department would let a building burn if it contained ag chemicals, rather than risk having their water carry chemicals to groundwater or nearby streams?	___	___	___	___
• Padlock chemical storage areas? . .	___	___	___	___
• Keep duplicate records of amounts and types of chemicals in storage and keep one set someplace else other than your chemical storage building? <i>(The extra record is useful in case of fire.)</i>	___	___	___	___
• Know which chemicals must be stored in a heated area to prevent lose of effectiveness due to freezing?	___	___	___	___
• Have any chemical containers with missing or unreadable labels?	___	___	___	___

VI. HANDLING & APPLICATION OF AG CHEMICALS

DO YOU:	Yes	No	Can Improve* Investigate	Does Not Apply
• Know that different parts of your body absorb pesticides at different rates?	___	___	___	___

Anatomy	% Parathion Absorption
scalp	32.1
ear canal	46.5
forehead	36.3
forearm	8.6
palm	11.8
abdomen	18.4
scrotum	100.0
ball of foot	13.5

(Researchers in California measured the percent absorption of parathion by different parts of the anatomy:) Most other pesticides have not been checked for body absorption rate.

DO YOU:

Yes No

- Know that symptoms of low-level organophosphate insecticide poisoning closely mimic the symptoms of exhaustion or flu?

(Symptoms include headaches, loss of appetite, nausea, dizziness, weakness and sweating.)

- Know that a product with higher water solubility, longer persistence, and low soil absorption has a greater potential of reaching groundwater?

- Use integrated Pest Management (IPM) to determine whether the \$ loss to the pest is great enough to warrant spraying, rather than spraying by schedule?

- Use one of the five specifically defined types of conservation tillage (reduced till, mulch till, slot till, ridge till, or no-till?

(They reduce the amount of soil, chemicals & fertilizer that is eroded to surface waters.)

- Band herbicides, insecticides, and other chemicals, rather than broadcasting them, to cut your costs and reduce their potential for pollution?

- Read the label before applying any chemical, and follow it?

- Calibrate spray nozzles before use?

**Even if you checked the YES or the No column you also should check the "Can Improve" if you think there's the slightest chance you could reduce your system's pollution potential and/or your production costs.*

n Im-
prove* Does
Invest- Not
tigate Apply

DO YOU:

Yes No

- Mix and load chemicals and fertilizers at least 100 feet away from your well?
(The closer you are, the easier it is for spilled chemicals to get into well.)
- Use rubber gloves and boots when handling chemicals?
Leather absorbs chemicals and keeps it in contact with your skin for days.)
- Measure concentrates and dilutions accurately before adding to tank?
- Drain the container into the spray tank by holding it in the vertical position for 30 seconds?
- Rinse containers as soon as they are emptied before the residue dries?
- Empty rinsate into your spray tank?
- Have an air gap between the water supply hose and the top of your spray tank to prevent back-siphoning?
- Have check valve and proper safety equipment on irrigation wells?
- Pump tailwater pits often and reuse the water for irrigation to prevent chemical residue from leaching into groundwater?
- Use irrigation scheduling?
(If soil is at field capacity, excess water and chemicals will likely move down past root zone.)

DO YOU:	Yes	No	Can prove Investigate	Does Not Apply
<ul style="list-style-type: none"> • Delay application to prevent wash-off or surface runoff if heavy rain is forecast? 	_____	_____	_____	_____
<ul style="list-style-type: none"> • Drive tractor into wind or at right angles to the wind whenever possible when spraying to prevent drift from getting on you? 	_____	_____	_____	_____
<ul style="list-style-type: none"> • Refrain from draining rinse water from equipment near or into ditches, streams, ponds, lakes or other water sources? <i>(Rinse waters containing any quantity of certain pesticides are classified as hazardous wastes according to state and federal laws.)</i> 	_____	_____	_____	_____
<ul style="list-style-type: none"> • Wear one of the new types of disposable coveralls when mixing or applying chemicals? <i>(It's not very expensive and they do a good job of protecting you.)</i> 	_____	_____	_____	_____
<ul style="list-style-type: none"> • Wash spray clothes separately? 	_____	_____	_____	_____
<ul style="list-style-type: none"> • Use crop rotation to avoid buildup of pest populations and maintain or improve soil conditions? 	_____	_____	_____	_____
<ul style="list-style-type: none"> • Alternate pest control products and use crop varieties that are pest resistant? 	_____	_____	_____	_____
<ul style="list-style-type: none"> • Have general groundwater pollution liability insurance? 	_____	_____	_____	_____
<p>KEEP COMPLETE APPLICATION RECORDS? <i>i.e. which chemical, how much, application rate, date, time, temperature, wind conditions, which field, and reason for spraying.)</i></p>	_____	_____	_____	_____

VII. CONTAINER DISPOSAL

DO YOU:	Yes	No	Can Improve* Investigate	Does Not Apply
• Return unopened chemicals for a refund?	_____	_____	_____	_____
• Check the product label for specific container disposal instructions from the manufacturer? . . .	_____	_____	_____	_____
• Triple rinse and puncture metal pesticide containers and recycle or dispose of them in approved landfills?	_____	_____	_____	_____
• Follow local and state laws on disposal of plastic and paper pesticide containers?	_____	_____	_____	_____
• Live in an area that sponsors voluntary container collection programs? <i>(If not, you might want to help start one.)</i>	_____	_____	_____	_____
• Burn plastic, paper, and other combustible materials after each day's use per application site?	_____	_____	_____	_____
• Burn only in daylight hours and have one person responsible to be in attendance for the entire period of the burn?	_____	_____	_____	_____
• Dispose of used motor oil at recycling centers?	_____	_____	_____	_____

**Even if you checked the YES or the NO column you also should check the "Can Improve" if you think there's the slightest chance you could reduce your system's pollution potential and/or your production costs.*

VIII. HOW TO TAKE A WATER SAMPLE

Always contact the lab where you plan to have the water tested, and ask them for sampling methods, containers, and packaging and delivery instructions.

Your method and timing of taking a sample will vary slightly depending on which point in the system you are concerned about:

1. Actual quality of the main source of water, (groundwater, stream, river, or main distribution lines of a public water system). Remove the faucet's aerator, sterilize the faucet opening by flaming and let the water run for 10 minutes before taking the sample.
2. Condition of your water pipes or storage tanks. Remove the aerator from your faucet, sterilize the faucet opening with flame, and take the sample within 3 or 4 seconds after you turn the water on.

TYPE OF SAMPLING CONTAINER. For some tests, water samples can be submitted in a plastic bag or bottle. Other tests require special dark-colored glass bottles. **ASK THE LAB!**

TIMELINESS. Usually, it's best to test the sample as soon as possible. Some tests must be done on site, others can wait a day or two, and others can be analyzed several weeks later (and often are).

HANDLING OF SAMPLE CONTAINERS.

- Do not touch the inside of the container or inside of the lid.
- Refrigerate or pack in ice and deliver to lab as quickly as possible if lab so instructs. (Don't throw the sample in the back seat and run all your errands before you stop at the lab.)
- Don't pump gasoline before taking the sample; ethylene dibromide (EDB) in the gasoline will evaporate off your hands into the sample.

For most accurate results, water samples should always be collected by a disinterested third party trained in proper sample collection procedures, and samples should be tested at an Environmental Protection Agency certified laboratory.

IX. RECOMMENDED INDIVIDUAL ACTIONS

1. Even if no obvious water problems exist, **household water supplies should be tested ANNUALLY** by your county or state Health Department for: pH, nitrates, total coliform bacteria, and total dissolved solids.

Testing water for every contaminant is possible, but very expensive and not necessary. It is more important to test on a regular basis for a few indicators of contamination and to maintain a record of water quality. This helps to identify changes in the supply, contamination of the water source or deterioration of the water system.

2. Test livestock and poultry water supplies ANNUALLY for pH, total dissolved solids, sulfate, flouride, calcium, magnesium, iron, copper, arsenic, cadmium, lead, nitrate, barium, total coliform, fecal coliform bacteria, and total plate count.
3. **Review this Checklist at the end of each calendar year and jot down which potential problem areas you improved on, and which ones you can work on in the coming year.**

Record of Household Water Tests

Year	Date	pH 6.8 to 7.5*	Nitrates NO ₃ -N 10ppm*	Total Coliform Bacteria 0/100ml*	Total Dissolved Solids 500ppm*	Other
1987						
1988						
1989						
1990						
1991						
1992						
1993						
1994						
1995						
1996						
1997						
1998						
1999						
2000						

ppm = parts per million ml = milliliters
*ACCEPTABLE LIMITS WITHOUT TREATMENT

4. **Test your water.** Many contaminants are not detectable by taste, odor or appearance. To help assure that your private water supply is safe, have your water analyzed by:

- State Certified Water Testing Lab...for a list contact:

Laboratory Certification Officer		Kansas Farm Bureau
Office of Laboratories	or	2321 Anderson Ave.
Ks. Dept. of Health & Environment		Manhattan, Kansas
Topeka, Kansas		(913/537/2261)
(913/296-1639)		

- An Alternative...Testing is available at

Kansas Department of Health and Environment
 Environmental Laboratories
 Forbes Field, Bldg. 740
 Topeka, Kansas 66620
 (913/296-1657)

X. SUGGESTED LOCAL FARM BUREAU ACTIVITIES

- **Distribute Checklists**

- **Set up a booth and promote water testing...**at county fair, farm show, field day.

- **Conduct Safe Drinking Water Clinic...**in cooperation with Extension Service, county Health Department, local well driller, and local water conditioning and testing companies.

- **Seek information and assistance:**

County & Kansas Farm Bureau	Regional U.S. EPA Office
County Extension Agent	Kansas Board of Agriculture
Soil Conservation Service	Kansas Dept. of Health and
Local Water Testing Lab	Environment

Committee of . . .

Kansas Farm Organizations

Wilbur G. Leonard
Legislative Agent
109 West 9th Street
Suite 304
Topeka, Kansas 66612
(913) 234-9016

TESTIMONY IN SUPPORT OF HOUSE BILL NO. 3068

BEFORE THE HOUSE COMMITTEE ON AGRICULTURE

AND SMALL BUSINESS

March 3, 1988

Mr. Chairman and Members of the Committee:

I am Wilbur Leonard, representing the Committee of Kansas Farm Organizations. We thank you for this opportunity to express our views on House Bill No. 3068.

I certainly don't need to remind any of you that farmers and ranchers have a vital stake in preserving the environment. While the use of agricultural chemicals and fertilizers has become widespread in the production of meat and grain the vast majority of such producers scrupulously apply these substances in the manner prescribed by the manufacturers and as authorized by the various federal and state regulatory agencies.

Anyone who uses chemicals, whether to control weeds or pests, has both the moral and the legal responsibility to proceed in a prudent manner, to follow the manufacturers' instructions and to not cause injury to others. By this bill we do not seek a legislative license to inflict harm on any person or group, but we do ask for protection from unwarranted legal interferences.

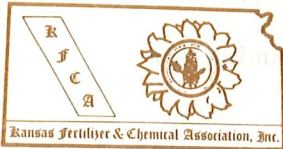
As you all know, the timing of agricultural activities often means the difference between a profitable crop or a financial disaster. If an injunction is obtained by a court action and the farming operation is delayed for even a short time, it can lead to a substantial crop loss. Whole fields could be destroyed while legal maneuverings drag on. It's little consolation for a farmer to be vindicated in a court

action if his crops have been lost in the process.

The principal purpose of this bill is to minimize the hasty filing of actions which have no foundation. If a farmer is enjoined from spraying his alfalfa field at about the time of an invasion of green bugs, he's not likely to have anything to show for that cutting. If there was no legal basis for this case why shouldn't the person who brought the suit and obtained the delay pay for the consequences of his acts?

This bill won't deprive anyone of their legal rights. If someone has been wronged because of the improper conduct of his neighbor in using agricultural chemicals, the aggrieved party has the right to bring an action to recover his loss and costs. He also has the right to obtain an injunction to stop the continued misuse of chemical substances.

We believe House Bill No. 3068 will encourage some persons to reflect further before seeking injunctive action which could be harmful to farmers and ranchers acting within the law. We respectfully urge the committee to recommend this bill favorably for passage.



KANSAS FERTILIZER AND CHEMICAL ASSOCIATION, INC.

Phone 913 234-0463

816 S.W. Tyler St., Topeka, KS 66612

[Mailing Address] P.O. Box 1517, Topeka, KS 66601-1517

STATEMENT OF THE

KANSAS FERTILIZER AND CHEMICAL ASSOCIATION

TO THE HOUSE AGRICULTURE COMMITTEE

CLIFF CAMPBELL, CHAIRMAN

REGARDING H.B. 3068

MARCH 3, 1988

Mr. Chairman and Members of the Committee, I am Chris Wilson, Director of Governmental Relations of the Kansas Fertilizer and Chemical Association (KFCA). Our Association consists of the state's agricultural chemical and fertilizer retail dealers, manufacturers and distributors.

We support H.B. 3068, which would amend Article 32 of the statutes, regarding the Protection of Farmland and Agricultural Activities.

H.B. 3068 is consistent with the existing statute, which says that if "agricultural activity is undertaken in conformity with federal, state, and local laws and regulations, it is presumed to be good agricultural practice and not adversely affecting the public health and safety." H.B. 3068 would further reinforce state policy by stating that those who have used agricultural chemicals according to label instructions have not misused the chemicals.

Our industry has no greater concern than the attitude of some government agencies that our potential liability for chemical damage, particularly groundwater contamination, is limitless. At present, no distinction is made as to whether the chemicals were properly used, with every governmental rule, instruction and best management practice applied. We firmly believe that since the government approves chemicals for use and prescribes

(continued)

ATTACHMENT III

the conditions under which they will be used, the government must bear some responsibility when those conditions are carefully met and contamination results.

Also, agricultural chemicals are of benefit to every citizen in innumerable ways every day. Because of these chemicals, we have a much more plentiful and wholesome food supply, at a more reasonable cost, than would otherwise be possible. They prevent additional disease which would be carried by insects and pests. They are present in our homes in many household items from toilet bowl cleaner to pet flea collars; they protect our lawns, flowers and gardens. Therefore, we believe there must also be some societal responsibility for these chemicals. We believe the benefits far outweigh the risks.

As an Association, we will continue to do all we can to promote safety and best management practices. We will make every effort to see that chemicals are applied in the best manner possible, according to the best government information, with no resulting damage. When that is done, we believe the applicator's liability should be limited.

We hope that you will favorably recommend H.B. 3068 for passage and thank you for this opportunity to comment on the bill.



SIERRA CLUB

Kansas Chapter

SIERRA CLUB TESTIMONY ON HB 3068

3 March 1988

I am Terry Shistar, the Pesticide Coordinator for the Sierra Club. I come as a representative of the 2000 members of the Kansas Sierra Club. The Sierra Club opposes HB 3068.

CONTEXT OF BILL

First I would like to discuss the context in which this bill arises--specifically, the context of pesticide regulation. Pesticides are regulated nationally by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and in Kansas by the Kansas Pesticide Law and the Kansas Agricultural Chemical Act. FIFRA imposes upon EPA the duty of registering pesticides and approving labels. Both FIFRA and the Kansas Pesticide Law require that pesticides be used in accordance with label instructions, but they also require more than compliance with the label. The state is prohibited by FIFRA (Section 24(b)) from imposing labeling different from Federal labels, except for special state registrations.

To my knowledge, the right of the courts to impose an injunction to prevent pesticide misuse has never been used in Kansas. Last year, when a bill similar to this one was introduced, Bill Fuller told the House Judiciary Committee that he was not aware of any use of this power either.

Under the Kansas Pesticide Law, the district courts may restrain violations of the law by injunction. A pesticide

application may be a violation of the Kansas Pesticide Law without violating the label.

Last year, I represented the Sierra Club in a coalition of organizations that was seeking changes in FIFRA. After the coalition arrived at a compromise bill in negotiations with the National Agricultural Chemicals Association, other amendments were made that eventually resulted in the death of the bill. One of these would have limited an agricultural user's liability for pesticide misuse to cases in which the label had been violated. This amendment was unacceptable to Congress because it made a drastic change in the level of responsibility of the pesticide user.

For example, FIFRA requires EPA to classify a pesticide as a restricted use pesticide "if the Administrator determines that the pesticide, when applied in accordance with its directions for use, warnings and cautions and for the uses for which it is registered, or for one or more of such uses, or in accordance with a widespread and commonly recognized practice, may generally cause, without additional regulatory restrictions, unreasonable adverse effects on the environment, including injury to the applicator." (Section 3(d)(1)(C))

WHAT HB 3068 DOES

In this context, what does HB 3068 do? Injunctions are granted by the court on a finding that the use would violate the Kansas Pesticide Law. If the court finds that the use is not a violation of the law, it does not issue an

injunction, and the usual provisions for frivolous actions apply if the plaintiff's claim is without basis. If the court finds that the use would violate the Kansas Pesticide Law, it may issue an injunction.

But the violation may not be a label violation. For example, the aerial application of a highly volatile, extremely toxic insecticide to a field adjacent to a school while children are attending would violate the Kansas Pesticide Law, which makes it illegal for a person required to be licensed, registered, or certified to "use any method or material without regard to public health, safety, or welfare." (KSA 2-2454(m)) There may not be a provision on the label that directly applies, but because the aerial applicator is required to be certified, he is required to meet certain other standards.

In addition, since the term "agricultural chemicals" includes pesticides used for other than agricultural uses, the extensive regulations for termite control would fall into the same category.

Therefore, there would be a number of violations for which an injunction could be rightfully granted under the Kansas Pesticide Law, but might nevertheless make the plaintiff liable for court costs and "other costs". Furthermore, the state does not have the ability to make the label carry all the legal weight because the state cannot require different labeling from federal labeling.

I am unclear about what this bill is meant to accomplish. The bill introduced last year, as well as a similar Senate bill (SB 508) this year, also addressed civil suits. Those bills have the additional problem of making recovery in a civil action dependent on proof of a violation of criminal statute.

The Sierra Club opposes both HB 3068 and SB 508 because to the extent that they do anything, they weaken public protection from pesticide misuse and create confusion about the intent of the law.