

Approved Mar. 15, 1989
Date

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS

The meeting was called to order by Representative Susan Roenbaugh at
Chairperson

9:07 a.m./~~p.m.~~ on February 27, 19 89 in room 423-S of the Capitol.

All members were present except: Representatives Amos and Freeman and
Representative Heinemann who was excused.

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

Conferees appearing before the committee:

Wilbur Leonard, Legislative Agent, Kansas Farm
Organization
Chris Wilson, Kansas Fertilizer and Chemical As-
sociation
Jarold W. Boettcher, President, Kansas Fertiliz-
er and Chemical Association
Joe Lieber, Executive Vice President, Kansas Co-
operative Council
Glen Searcy, Supervisor, ACAP Division of Inspec-
tions, State Board of Agriculture
Margaret Ahrens, Sierra Club

Chairman Roenbaugh declared hearings to be open on House Bill 2422, a bill concerning regulation of processing and disposal of commercial fertilizer and fertilizer materials in bulk.

As a proponent of the bill, Wilbur Leonard, Legislative Agent for the Kansas Farm Organization, first addressed the Committee. (Attachment 1.) He briefly reviewed the content of the bill and further said his organization believes the bill "provides the mechanism, guidelines, and enforcement tools to more effectively control unwanted and unnecessary soil and water pollution from fertilizer products."

The Chair next acknowledged Chris Wilson, Kansas Fertilizer and Chemical Association, who spoke briefly in favor of the legislation and then introduced Jarold W. Boettcher, President, Kansas Fertilizer and Chemical Association. (Attachment 2)

Mr. Boettcher indicated support for the approach and content of the bill which would provide for authority to be granted to the State Board of Agriculture to regulate the storage and handling of bulk fertilizer.

He commented that the effort projected by this bill "will require a certain amount of creativity as each storage site generally has a peculiar set of circumstances. Some sites may be such that compliance will be very difficult. Some sites may have to be relocated. Some sites will be such that when a serious look is taken as to the economics, the site will have to be closed."

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In the question and answer period following Mr. Boettcher's testimony he indicated that these specifications as set out in the bill would meet EPA requirements. He also said that eventually these requirements would come out and that it was a question of who takes the initiative to get the program underway and who will control it. When the State initiates the program there will be meetings for interested people to voice opinions and concerns--when the EPA does it there will just be an edict as to how it is to be done and no input from "the folks at home." But---it will happen!

Mr. Boettcher stated, "We are in a 'preventive mode' and to our knowledge, at this time, any problems we have now are insignificant and not widespread in scope."

Joe Leiber, Executive Vice President, Kansas Cooperative Council, testified in behalf of the bill. (Attachment 3) Even though he supported the bill, he voiced a concern regarding the length of time which might be necessary for dealer compliance along with the need for flexibility and the hope that an effect of this bill would not be to force some dealers out of the fertilizer business.

Glen Searcy, Supervisor, ACAP Division of Inspections, State Board of Agriculture, next spoke to the Committee. (Attachment 4) Mr. Searcy acknowledged that the bill will authorize the Board of Agriculture to adopt rules and regulations for the safe handling and storage of fertilizers and fertilizer materials. He noted that it is important that the Board of Agriculture take an active role to assure that fertilizer products are stored and handled in a safe manner to prevent accidental releases of fertilizer and thereby contamination of our natural resources.

Mr. Searcy said the Board intends to work with industry, interested groups, and others to develop rules and regulations. He further stated that it is the contention of the Board that this bill is for the betterment of Kansas.

Margaret Ahrens, Sierra Club, was not present at the meeting but presented testimony in support of the bill. (Attachment 5)

Hearings on House Bill 2422 were pronounced closed by the Chairman.

Chairman Roenbaugh asked for final action by the Committee on House Bill 2293, a bill relating to the preparation and sale of ice cream by food service establishments.

Representative Jenkins moved that the bill be passed out of committee favorably. Representative Eckert seconded the motion. The motion passed.

The Chair asked for consideration by the Committee of House Bill 2422, the bill on which testimony was previously heard.

Representative Solbach made a conceptual motion that on Line 40 the language be corrected to read "...and the prevention of either commercial fertilizer or fertilizer materials..." Representative Jenkins seconded the motion. The motion passed.

In further discussion of the bill as amended, several members of the Committee voiced their concerns that until they could see

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what the rules and regulations are concerning this bill, they would have difficulty in supporting the bill. They felt if it would affect the dealers enough to put some out of business they could not support it. One member commented, "It might hurt some we don't want to hurt."

It was pointed out that the rules and regulations could not be drawn up until the bill was passed. Another member said he felt very concerned about some of the small business people that this might adversely affect and he would not be in favor of it.

The general concerns expressed by various Committee members were addressed by another member who said, "According to testimony which was presented previously, the people who will be drawing up the rules and regulations are sensitive to these concerns. The rules and regulations process will require public hearings where people affected by those rules and regulations can come in and present their concerns and hopefully those concerns will be taken into consideration. If they are not, we, as legislators, have the power to repeal those if we can get the Governor to sign. We should encourage people across the State to participate in the rules and regulations process so that people who do have safe facilities and structures in place aren't being in non-compliance because the rules and regulations have some 'too severe' requirements."

A further comment was made that there is something to be said for "agriculture to write rules and regulations for agriculture" rather than "Health and Environment write rules and regulations for agriculture."

On consensus of the Committee, it was decided to wait until Friday of this week to consider the bill for final action.

The meeting was adjourned by the Chairman at 9:51 a.m.

The next meeting of the House Agriculture and Small Business Committee is on February 28, 1989, at 9:00 a.m. in Room 423-S.

Comm. tee of . . .

Kansas Farm Organizations

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

STATEMENT IN SUPPORT OF HOUSE BILL NO. 2422

BEFORE THE HOUSE COMMITTEE ON AGRICULTURE

AND SMALL BUSINESS

February 27, 1989

Madam Chairperson and Members of the Committee:

I am Wilbur Leonard, appearing on behalf of the Committee of Kansas Farm Organizations. Our members have an interest in this proposal inasmuch as we fully realize that the storage of commercial fertilizers and fertilizer materials in bulk has a definite relationship to agricultural activities. We become involved in legislative issues only when we have no member registering a dissent to the position taken. As you can see from the roster of our membership attached to my statement that list covers a broad spectrum and we appreciate the opportunity to make their collective views known on this subject.

We believe that House Bill No. 2422 provides the mechanism, the guidelines and the enforcement tools to more effectively control unwanted and unnecessary soil and water pollution from fertilizer products. It places the responsibility where it belongs, on those persons storing and handling the materials. It grants to the secretary of the state board of agriculture the necessary authority to accomplish the objectives set forth and to take appropriate action against those who disregard their responsibilities.

Thank you for your consideration and I will be pleased to respond to your questions.

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ATTACHMENT 1

MEMBERS OF THE COMMITTEE OF KANSAS FARM ORGANIZATIONS

ASSOCIATED MILK PRODUCERS

KANSAS AGRI-WOMEN

KANSAS ASSOCIATION OF SOIL-CONSERVATION DISTRICTS

KANSAS ASSOCIATION OF WHEAT GROWERS

KANSAS COOPERATIVE COUNCIL

KANSAS CORN GROWERS ASSOCIATION

KANSAS ELECTRIC COOPERATIVES

KANSAS ETHANOL ASSOCIATION

KANSAS FARM BUREAU

KANSAS FERTILIZER & CHEMICAL INSTITUTE, INC.

KANSAS GRAIN & FEED DEALERS ASSOCIATION

KANSAS LIVESTOCK ASSOCIATION

KANSAS MEAT PROCESSORS ASSOCIATION

KANSAS PORK PRODUCERS COUNCIL

KANSAS RURAL WATER ASSOCIATION

KANSAS SEED DEALERS ASSOCIATION

KANSAS SOYBEAN ASSOCIATION

KANSAS STATE GRANGE

MID-AMERICA DAIRYMEN

KANSAS VETERINARY MEDICAL ASSOCIATION

KANSAS WATER WELL ASSOCIATION

WESTERN RETAIL IMPLEMENT AND HARDWARE ASSOCIATION

TESTIMONY OF JAROLD W. BOETTCHER
PRESIDENT, KANSAS FERTILIZER & CHEMICAL ASSOCIATION
VICE PRESIDENT, BOETTCHER ENTERPRISES, INC., BELOIT, KANSAS

Regarding H.B. 2422
HOUSE AGRICULTURE COMMITTEE
SUSAN ROENBAUGH, CHAIRPERSON

My name is Jarold Boettcher. I currently serve as President of the Kansas Fertilizer & Chemical Association. The Association has about 500 members across the State of Kansas, primarily retail fertilizer and chemical dealers. I am Vice President of Boettcher Enterprises, Inc., in Beloit, Kansas, which operates about 30 retail fertilizer outlets in Northcentral Kansas and Southern Nebraska.

Speaking for the Association, and speaking for our Company, we support the approach and content of H.B. 2422, which provides for authority to be granted to the State Board of Agriculture to regulate the storage and handling of bulk fertilizer. Several months ago, a Task Force comprised of representatives of our Association and the State Board of Agriculture was formed to gather information and provide input to this legislation. Our industry is concerned about protecting the environment but we also believe that to the fullest extent possible, such regulation should occur at the State level, where those involved are most familiar with individual needs and circumstances. Our industry recognizes that change must occur. In our daily lives you and I do things differently than we might have done 10 or 20 years ago. We learn something new every day. Some of these discoveries make us wish we could turn the clock back and do things differently from the beginning. We can't do that, however, and must go forward based upon our knowledge of things as they are today and using our best judgment as to how to deal with the problems of today.

The Bulk Fertilizer Task Force has met several times. I am sure we will meet many more. We have reviewed legislation proposed and passed in other states. We have discussed our individual situations among ourselves. We have consulted with other sources, such as the Tennessee Valley Authority. There is help available and we are seeking it out. The legislation in H.B. 2422 will give the State Board of Agriculture the needed

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authority to draw up the regulations for the storage and handling of bulk fertilizer. Much work has already been done at individual locations in anticipation of these regulations. There are many more in our industry who are eager to get started, recognizing that bringing a facility up to standards which are yet to be developed, involves a certain article of faith. Such effort will take time and capital. Moreover, the effort will require a certain amount of creativity as each storage site generally has a peculiar set of circumstances. Some sites may be such that compliance will be very difficult. Some sites may have to be relocated. Some sites will be such that when a serious look is taken as to the economics, the site will have to be closed. The volume at a location(s) may not justify the expenditures necessary under these regulations.

The fiscal impact will be substantial but as yet, it cannot be quantified. Hardships may be created as a result but we must also recognize that this change I talked about earlier, must occur. We simply must do a better job of providing protection for the environment, of preventing runoff, of preventing point-source damage, of providing for the future, yet still being able to serve our farmer-customers, providing them with the services and products they need.

Thank you for your consideration. I will try to answer any questions you might have.

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Testimony on HB 2422
Committee on Agriculture and Small Business
February 27, 1989
Prepared by Joe Lieber
Kansas Cooperative Council

Madam Chairman and members of the Committee: For the record I'm Joe Lieber, Executive Vice President of the Kansas Cooperative Council. The Council has a membership of nearly 200 cooperatives that have as their members nearly 200,000 Kansas farmers and ranchers.

The Council supports HB 2422 because we too want to prevent fertilizer materials from being introduced into the ground or surface water of our state.

Even though we do support the bill, we would like to express a concern that we have at this time.

As the Board of Agriculture established these regulations and sets the dates for compliance we hope they are conscious of the cost to the fertilizer dealers. If the requirements are too expensive and the dates too soon, many dealers may be forced out of business or at least out of the fertilizer business.

Not only would we hate to see these dealers forced out of business, but it would limit the number of dealers the farmer could choose to do business with.

We have no reason to believe that the Department of Agriculture is not sympathetic to these concerns, but we did feel that they needed to be expressed.

Thank you.

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PRESENTATION TO THE HOUSE COMMITTEE ON
AGRICULTURE AND SMALL BUSINESS

By Glen H. Searcy, Supervisor
ACAP Division of Inspections

Good morning Madam Chairperson, and members of the House Committee on Agriculture and Small Business. My name is Glen Searcy, Supervisor in the Agricultural Commodities Assurance Program, Division of Inspections, with the Kansas State Board of Agriculture.

H.B. 2422 addresses fertilizers, authorizing the Board of Agriculture to adopt rules and regulations for the safe handling and storage of fertilizers and fertilizer materials. It establishes minimum general standards covering the design, construction, location, installation and operation of the storage and handling of commercial fertilizers and bulk fertilizer materials to prevent contamination of ground and surface waters, through confinement of spills or discharges, for prompt recovery. As the issues of the environment and water quality are a concern to all Kansans it is important that we (the Board of Agriculture) take an active role to assure that fertilizer products are stored and handled in a safe manner to prevent accidental releases of fertilizer thus contaminating these resources.

We will work with industry and interested groups and others to develop rules and regulations requiring those facilities that handle fertilizer to have the proper safety equipment, to contain spills and promptly clean-up all accidental releases is a positive step. Five states in the midwest have already adopted similar laws (Minnesota, Oklahoma, Iowa, Illinois and Wisconsin) and other states are looking at initiating some type of containment legislation.

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There are several reasons for allowing the Kansas State Board of Agriculture to adopt these types of regulation:

1. Industry is requesting that some requirements for containing fertilizer at their facilities be established. The types of requirements sought deal with containment walls, load and unload pads, equipment locking requirements (i.e. padlocks on valves), and other safety requirements to prevent spills from occurring and assure cleanup is done when they do occur.
2. The Kansas State Board of Agriculture is presently in these facilities performing safety inspections for anhydrous ammonia and sampling other fertilizer products. These inspectors are qualified to perform these additional duties.
3. The state will have requirements in place and not have to rely on federal agencies to perform inspections or dictate requirements.

It is our opinion that there would be substantial economic impact on industry, however, until regulations are passed specifying the exact requirements, the amount of this impact is not known nor can it be predicted by us. Industry may have a better feel for this in their testimony. However, it is in mutual interest of the citizens of Kansas to establish minimum requirements

Fiscal impact upon the agency is minimal. We already have 8 field inspectors conducting inspections at these facilities, additional field staff is not necessary. One additional clerical position will be required to process the forms and a half time administrator will be required to review forms to assure requirements are met and follow-up to provide compliance. Printing of laws, forms, travel for administrative staff, and other office supplies will be required. This is a fee funded program and we do not anticipate any increase in the fees already being submitted.

This bill will enable current field staff to better regulate fertilizer products by allowing not just the product to be inspected but also the storage and handling at the fertilizer facility. We feel this is for the betterment of Kansas.

If consideration is given to a certain threshold amount it will interface with S.B. 94. This bill will affect farmers as well as fertilizer dealers who store agricultural fertilizer.

If you have any questions, I or our staff, will be glad to answer them for you.



SIERRA CLUB

Kansas Chapter

HB 2422

Regulation of Handling, Storage and Disposal of Commercial
Fertilizers and Fertilizers in Bulk

House Committee on Energy and Natural Resources

February 27, 1989

I am Margaret Ahrens, representing the 2200 Members of the Kansas Chapter of the Sierra Club. The Sierra Club has longstanding concerns for the protection of our natural resources. We know that prevention of contamination is consistently the LEAST costly effort when compared with health costs and clean-up once contamination has occurred. We support HB 2422 because of its potential for protecting groundwater from contamination due to concentrated leaching of fertilizers at points of handling, storage and disposal.

Although consistent high-quality testing of farm wells in Kansas is not yet a reality, the Kansas State University Farmstead Well Study gave us indicators of the potential level of nitrate contamination in farmstead wells used by Kansas farm families. While naturally occurring nitrate in groundwater does not normally exceed 1 to 3 milligrams per liter, 28% of the wells studied in Kansas had nitrate levels exceeding 10 milligrams per liter. Half of the contaminated wells contained levels of 20 milligrams per liter or more. The primary drinking water standard for nitrates is 10 milligrams per liter.

House Bill 2422 recognizes fertilizer handling areas as sources of intensified nitrate leachate with potential to contaminate groundwater. Similar alterations in the Kansas Pesticide Law would provide a greatly needed control on the handling of pesticides.

We commend the industry for this regulatory effort and strongly urge that you vote favorably on HB 2422.

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ATTACHMENT 5