

Approved Mar. 21, 1989
Date

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS

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

9:06 a.m./~~p.m.~~ on March 3, 1989 in room 423-S of the Capitol.

All members were present except: Representative Wells.

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:

Chairman Roenbaugh called for action on House Bill 2422.

A balloon was passed out to the Committee which was prepared by Norman Furse, Revisor of Statutes Office, with regard to the conceptual amendment which was made on February 27, 1989, by Representative Solbach. (Attachment 1)

Representative Reinhardt submitted another balloon on the bill which he felt clarified standards for setting up rules and regulations and provides the Board of Agriculture with some guidelines in drawing up the rules and regulations, yet leaves enough flexibility to work within the intent of the law. (Attachment 2)

Representative Reinhardt moved that the bill be amended with his proposal. Representative Gross seconded the motion.

The Chair invited discussion regarding the motion. One member of the Committee questioned the authority of the Committee to designate standards and guidelines to the Board of Agriculture for setting up rules and regulations.

On vote of the Committee, the motion failed.

The motion was made by Representative Bryant that the Solbach amendment be made to the bill. Representative Flowers seconded the motion. The motion passed.

Representative Jenkins moved that House Bill 2422 be passed as amended. Representative Amos seconded the motion.

Representative Larkin made a substitute motion---that a conceptual amendment be made to the bill to exempt facilities with one container or a combination of containers with a volume of 5,000 gallons or less. Representative Gross seconded the motion. The motion failed.

The Chairman called for a vote on the original motion on the floor. The motion passed.

Committee action was called for by the Chair on House Bill 2489.

Chairman Roenbaugh called for a committee report from Representative Bryant. Representative Bryant first presented the Committee

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS,
room 423-S, Statehouse, at 9:06 a.m./~~p.m.~~ on March 3, 1989

with requested information from the Board of Agriculture (Attachment 3). Representative Bryant then distributed copies of the balloon of House Bill 2489 which suggest three alternatives on line 53, page 2---amendment on line 77; delete (4)(b), lines 95-97; amend (4)(d), line 102; add (4)(e), line 107. (Attachment 4)

Representative Ensminger moved to adopt the first alternative as prescribed in the original bill (lines 51 through 56). Representative Bryant seconded the motion.

A substitute motion was made by Representative Hamm to strike sub-section 9. Representative Rezac seconded the motion. Following discussion, the motion carried.

The Chairman called for adjournment of the meeting at 9:40 a.m.

The next meeting of the House Agriculture and Small Business Committee will be on March 15, 1989, at 9:00 a.m. in room 423-S.

HOUSE BILL No. 2422

By Committee on Agriculture and Small Business

2-15

Ag. & SB
03-03-89
ATTACHMENT 1

15 AN ACT concerning fertilizers; providing for regulation of the han-
16 dling, storage and disposal of commercial fertilizers and fertilizer
17 materials in bulk; providing for approval of facilities and equip-
18 ment; declaring certain acts to be violations and providing penalties
19 therefor.
20

Be it enacted by the Legislature of the State of Kansas:

22 Section 1. As used in this act:

23 (a) "Commercial fertilizer" shall have the meaning ascribed to
24 such term under K.S.A. 2-1201 and amendments thereto.

25 (b) "Fertilizer materials" shall have the meaning ascribed to such
26 term under K.S.A. 2-1201 and amendments thereto.

27 (c) "Bulk fertilizer" means any liquid, blended or dry fertilizer
28 or fertilizer material stored in a fluid or dry nonpackage form.

29 (d) "Facility" means a place where commercial fertilizer materials
30 are stored, mixed, blended, manufactured, weighted or handled.

31 (e) "Board" means the state board of agriculture.

32 (f) "Secretary" means the secretary of the state board of
33 agriculture.

34 Sec. 2. The board is authorized to adopt rules and regulations:

35 (a) For the safe handling and storage of commercial fertilizers
36 and fertilizer materials in bulk;

37 (b) for the establishment of minimum general standards covering
38 the design, construction, location, installation and operation for the
39 storage and handling of commercial fertilizer and fertilizer in bulk
40 and either commercial fertilizer and the prevention of fertilizer ma- Commercial fertilizer,
41 terials being introduced into the ground or surface waters of the or fertilizer in bulk form
42 state;

43 (c) for the establishment of minimum general standards covering
44 the design, construction, location and installation of a structure con-

HOUSE BILL No. 2422

By Committee on Agriculture and Small Business

2-15

Ag. SB
03-03-89
ATTACHMENT 2

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AN ACT concerning fertilizers; providing for regulation of the handling, storage and disposal of commercial fertilizers and fertilizer materials in bulk; providing for approval of facilities and equipment; declaring certain acts to be violations and providing penalties therefor.

Be it enacted by the Legislature of the State of Kansas:

Section 1. As used in this act:

- (a) "Commercial fertilizer" shall have the meaning ascribed to such term under K.S.A. 2-1201 and amendments thereto.
- (b) "Fertilizer materials" shall have the meaning ascribed to such term under K.S.A. 2-1201 and amendments thereto.
- (c) "Bulk fertilizer" means any liquid, blended or dry fertilizer or fertilizer material stored in a fluid or dry nonpackage form.
- (d) "Facility" means a place where commercial fertilizer materials are stored, mixed, blended, manufactured, weighted or handled.
- (e) "Board" means the state board of agriculture.
- (f) "Secretary" means the secretary of the state board of agriculture.

Sec. 2. [The board is authorized to adopt rules and regulations: (a)

[a] For the safe handling and storage of commercial fertilizers and fertilizer materials in bulk; (1)

[b] for the establishment of minimum general standards covering the design, construction, location, installation and operation for the storage and handling of commercial fertilizer and fertilizer in bulk and either commercial fertilizer and the prevention of fertilizer materials being introduced into the ground or surface waters of the state; (2)

[c] for the establishment of minimum general standards covering the design, construction, location and installation of a structure con- (3)

45 structured for the purpose of confining any spills or discharged fertilizer
46 or fertilizer material within a specified area;

47 [(d)] for the prompt recovery of fertilizer or fertilizer materials (4)
48 spilled within a specified area;

49 [(e)] for dates by which the owners or operators, or both, of faci- (5)
50 lities and equipment subject to the provision of this act and in
51 existence prior to the effective date of this act shall comply with
52 this act; and

53 [(f)] for the administration of this act. (6)

54 Sec. 3. (a) A person beginning construction of or substantial alter-
56 ation to an existing facility or equipment used for the manufacture,
57 blending, handling or bulk storage of commercial fertilizer or fer-
58 tilizer materials shall apply to the secretary, on forms provided by
59 the secretary, for approval of such construction or alteration. The
60 person shall provide the secretary with such information as the sec-
61 retary deems necessary. The secretary shall approve the construction
62 or alteration of the facility or equipment if such construction or
63 alteration is consistent with the standards and other requirements
64 established by rules and regulations under section 2.

65 (b) The approval shall be transferable from the owner issued the
66 approval to another owner if the new owner notifies the board within
67 30 days after the facility has changed ownership. Approval shall not
68 be transferable from one location to another.

69 (c) The owner or operator of a facility or equipment used for the
70 manufacture, blending, handling or bulk storage of commercial fer-
71 tilizer or fertilizer materials established prior to the effective date
72 of this act shall obtain the secretary's approval of the facility or
73 equipment according to the dates specified in rules and regulations.

74 Sec. 4. For the purposes of administering this act, the secretary
75 or a person or persons designated by the secretary shall have the
76 right to enter private property and to inspect facilities and equip-
77 ment. It shall be the duty of the secretary or any such designated
78 person or persons to notify the owner or operator of any facility or
79 equipment: (1) Of any defect or deficiency in the construction, in-
80 stallation or operation of any such facility or equipment; and (2) of
any defect or deficiency in the safety equipment or in the use thereof
The owner or operator of such facility or equipment may be given

(b) In promulgating rules and regulations, the board shall have the authority to create separate categories of standards for each type of regulations specified in subsection (a) of this section. In establishing separate categories of standards, the board may consider the following factors:

- (1) Type and size of facility,
- (2) type and size of any storage container,
- (3) proximity to sources of ground or surface water,
- (4) whether or not the facility manufactures, blends, handles or otherwise processes commercial fertilizers or fertilizer materials for resale, and
- (5) such other factors necessary to protect the public health safety and welfare.

(c) The board shall adopt rules and regulations required by this act within one year after the effective date of this act.

82 a specified reasonable time within which to comply with the rules
83 and regulations.

84 Sec. 5 It shall be unlawful, and a violation of this act, for any
85 person:

86 (a) To operate any facilities or equipment unless: (1) The facilities
87 and and equipment are constructed and installed in accordance with
88 the rules and regulations adopted under the provisions of section 2
89 and amendments thereto; and

90 (2) the facilities and equipment are adequately maintained; and

91 (3) the facilities and equipment are approved under section 3
92 and amendments thereto.

93 (b) To use any product container, piping, valve, hose, appurte-
94 nances or other equipment for handling and storage of commercial
95 fertilizer and fertilizer materials which is defective or which is oth-
96 erwise unsafe.

97 (c) To fail to provide, or fail to have available, for use such safety
98 material and such effective safety equipment, as required by rules
99 and regulations.

100 (d) To violate any rule and regulation adopted under section 2
101 and amendments thereto.

102 (e) To impede, obstruct or hinder, or to otherwise prevent or to
103 attempt to prevent, any authorized state personnel or employee in
104 the performance of duties in connection with the administration of
105 this act.

106 Sec. 6. Any person violating or failing to comply with any of the
107 provisions of this act, or any rule and regulation adopted under this
108 act, shall be guilty of a class B misdemeanor. If any person owning
109 or operating a facility or equipment used for manufacture, blending,
110 handling or bulk storage of commercial fertilizer or fertilizer materials
111 fails to make the changes, additions and alterations necessary to
112 correct any defects or to correct the deficiencies, within the specified
113 time as directed, then the county or district attorney of the county
114 in which the facility or equipment is located shall seek an injunction.

115 Sec. 7. This act shall take effect and be in force from and after
116 its publication in the statute book.

New Sec. 5. (a) Each facility shall register with th
secretary within six months after the effective date of
this act. Such registration shall be made on a form sup-
plied by the secretary.

(b) Within four months after the effective date of
rules and regulations, the secretary shall notify all
registered facilities of the minimum requirements for
approval of facilities pursuant to section 3.

(c) Within one year after the effective date of rule
and regulations, each facility shall submit to the secre-
tary, on a form supplied by the secretary, a list of all
deficiencies of the facility and a proposed plan to bring
the facility into compliance.

(d) Each facility shall complete all construction or
other required actions necessary to meet conditions for
approval of facilities within the time frame specified by
the secretary but not to exceed four years after the date
of the notification of the secretary pursuant to subsec-
tion (c) of this section.

6

PRESENTATION TO THE HOUSE COMMITTEE ON
 AGRICULTURE AND SMALL BUSINESS
 H.B. 2489

The additional information as requested by the House Agriculture and Small Business Committee concerning the number of samples submitted by farmers for analysis (service samples) and the number analyzed that are in violation of the Kansas Seed Law are as follows:

<u>Fiscal Year</u>	<u>Samples Submitted</u>	<u>Violations</u>	<u>% Violations</u>
1989 (1st half)	3,370	185	5.5
1988	8,991	338	3.8
1987	10,224	252	2.5

The number of official samples taken by the Kansas State Board of Agriculture, the number of stop sales issued in the field and the number of samples analyzed that are in violation of the Kansas Seed Law are as follows:

<u>Fiscal Year</u>	<u>Samples</u>	<u>Field Violations</u>	<u>Analytical</u>	<u>% Violations</u>
1989	98	17	7	18%
1988	398	105	28	26%
1987	691	32	20	5%

Consideration should be taken with the fact that inspectors draw the majority of their samples from main stream seed dealers that have to comply with the labeling law. In the last two years, with the CRP program, violations have increased.

Copy SB
03-03-89

HOUSE BILL No. 2489

By Committee on Agriculture and Small Business

2-22

14 AN ACT concerning agricultural seed; establishing certain unlawful
15 act.; providing for registration of seed dealers; amending K.S.A.
3 1988 Supp. 2-1421 and repealing the existing section.
17

18 *Be it enacted by the Legislature of the State of Kansas:*

19 Section 1. K.S.A. 1988 Supp. 2-1421 is hereby amended to read
20 as follows: 2-1421. (a) It is unlawful for any person to sell, offer for
21 sale or expose for sale any agricultural seed for seeding purposes:

22 (1) Unless a test has been made to determine the percentage of
23 germination and it shall have been completed within a nine-month
24 period (exclusive of the calendar month in which the test was com-
25 pleted) immediately prior to sale, exposure for sale or offering for
26 sale;

27 (2) which is not labeled in accordance with the provisions of this
28 act;

29 (3) which has a false, misleading or incomplete label;

30 (4) which contains noxious weed seeds;

31 (5) which contains restricted weed seeds in excess of the quantity
32 prescribed by subsection (k) of K.S.A. 2-1415 *and amendments*
33 *thereto*;

34 (6) which contains more than 1% of weed seeds by weight, except
35 smooth bromegrass, fescues, orchard grass, wheatgrasses, and les-
36 pedeza which contain more than 2% weed seed by weight and chaffy
37 range grasses which contain more than 4% by weight;

38 (7) if any label, advertisement or other media represents such
39 agricultural seed to be certified or registered, unless: (A) Such cert-
40 ification or registration has been determined by an official seed cer-
tifying agency; and (B) such seed bears an official label issued for
such seed by such agency stating that the seed is certified or

Ag 5 SB
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ATTACHMENT 4

43 registered;

44 (8) by variety name not certified by an official seed certifying
45 agency when it is a variety for which a certificate of plant variety
46 protection has been issued under public law 91-577, the plant variety
47 protection act, specifying sale only as a class of certified seed, except
48 that seed from a certified lot may be labeled as to variety name
49 when used in a mixture by, or with the approval of, the owner of
50 the variety;

51 (9) *by advertising or causing to be advertised by means of tel-*
52 *evision, radio, newspaper, magazine or other publication which is*
53 *[not] distributed to the general public [without cost] when the advertised*
54 *seed has not been tested and labeled as required by law or when*
55 *the person advertising the seed has failed to register with the sec-*
56 *retary as required by section 2 and amendments thereto;*

57 (10) *without having registered with the secretary as required by*
58 *section 2 and amendments thereto.*

59 (b) It is unlawful for any person:

60 (1) To alter or deface any label so that the information is false
61 or misleading or to mutilate any label;

62 (2) to disseminate any false or misleading advertisements con-
63 cerning agricultural seed;

64 (3) to issue any statement, invoice or declaration as to the variety
65 of any agricultural seed which is false or misleading;

66 (4) to hinder or obstruct the secretary or an authorized repre-
7 sentative of the secretary in the performance of official duties;

68 (5) to fail to comply with a stop sale order, or to move or oth-
69 erwise handle or dispose of any quantity of seed held under a stop
70 sale order, or a stop sale tag attached thereto, except with express
71 permission of the enforcing officer in writing and except for the
72 purpose specified therein;

73 (6) to use the word "trace" as a substitute for any statement
74 which is required;

75 (7) to use the word "type" in any labeling in connection with
76 the name of any agricultural seed variety.

77 (c) Except as provided in subsection (a)(8) of this section, it shall
not be a violation of this act for the grower of agricultural seed to
sell on the grower's premises for planting or seeding purposes, ag-

alternative 2: add following "cost" the following:
"for a fee"
? alternative 3: delete subsection 9

subsections (a)(8) and (a)(9)

80 ricultural seed which is not tested and labeled when:

- 81 (1) The seed is produced by the grower and is;
- 82 (2) *the seed is free from noxious weed seed;*
- 83 (3) *the seed contains no restricted weed seed in excess of the*
- 84 *tolerance prescribed in subsection (k) of K.S.A. 2-1415 and amend-*
- 85 *ments thereto; and*
- 86 (4) *the seed has been grown within the state of Kansas.*

87 New Sec. 2. (a) Each person who is a seed dealer shall register
 88 with the state board of agriculture. Registration shall be required
 89 for each place of business at which seed is sold and shall be on a
 90 form provided by the secretary of the state board of agriculture.
 91 Each registration shall expire on September 1 following issuance
 92 unless such registration is renewed annually. A registration fee of
 93 \$10 shall accompany the application. A renewal fee of \$10 shall
 94 accompany the application for renewal.

95 (b) The provisions of subsection (a) of this section shall not apply
 96 to any person who sells only seed received on consignment for
 97 another seed dealer. ? Delete

98 (c) The provisions of subsection (a) of this section shall not apply
 99 to any individual who sells seed grown in Kansas pursuant to the
 100 provisions of subsection (c) of K.S.A. 2-1421 and amendments
 101 thereto.

102 (d) The secretary of the state board of agriculture shall remit all
 103 moneys received by the secretary under this section to the state
 104 treasurer. Upon receipt of any such remittance, the state treasurer
 105 shall deposit the entire amount thereof in the state treasury and the
 106 same shall be credited to the state general fund.

(d) The state board of agriculture may adopt rules and regulations as necessary to carry out the provisions of this section.

107 Sec. 3. K.S.A. 1988 Supp. 2-1421 is hereby repealed.

108 Sec. 4. This act shall take effect and be in force from and after
 109 its publication in the statute book.

(e) The secretary of the state board of agriculture shall remit all moneys received by the secretary under this section to the state treasurer. 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 seed inspection fund. All expenditures from such fund shall be made for the enforcement of this section and shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of the state board of agriculture or by a person designated by the secretary.