

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS

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

7:00 a.m./~~p.m.~~ on March 29, 1990 in room 423-S of the Capitol

All members were present except: Representative Freeman  
Representative Wells

Committee staff present: Raney Gilliland, Legislative Research  
Jill Wolters, Revisor of Statutes Office  
Pat Brunton, Committee Secretary

Conferees appearing before the committee: Chris Wilson, Director of Governmental  
Relations, Kansas Fertilizer and  
Chemical Association  
Bill R. Fuller, Assistant Director,  
Public Affairs Division, Kansas  
Farm Bureau  
Larry D. Woodson, Director, Division  
of Inspections, Kansas State Board  
of Agriculture  
Frances Kastner, Director, Kansas Food  
Dealers Assn.

Chairman Roenbaugh asked Raney Gilliland, staff, to brief the committee on Senate Bill 767 - decreasing inspection fee on commercial fertilizer.

Mr. Gilliland explained amendments to the committee. Questions and answers followed.

Hearings were opened on SB 767 by the Chairman.

Chris Wilson, Kansas Fertilizer and Chemical Association, testified in support of SB 767 and urged the committee's support for this bill. She further stated the fact that a seed inspection fee does not exist should not mean that fertilizer users have to continue to pay the cost of the program. Other industries in Kansas have to contribute to regulation of their industries. It's time that seed dealers did, too. (Attachment I).

Bill R. Fuller, Kansas Farm Bureau, testified in support of SB 767 and strongly encouraged the committee's approval of the bill. He further stated this bill will provide buyer protection; will reduce spread of noxious and restricted weeds; will establish "truth in taxing"; does not prohibit anyone from advertising; does not change the Federal Plant Variety Protection Act, and does not repeal the "farmer exemption". (Attachment II).

Larry D. Woodson, Director, Division of Inspections, Kansas State Board of Agriculture testified in support of SB 767 saying the bill meets the Board's objectives, as it provides a seed law more consistent with surrounding states, it offers consumer protection to farmers and urban consumers (who purchase valuable grass seed for their lawns), and it generates revenue from the registration of individuals or companies who place seed on the market. He also informed the committee of a change in statute on page 3, line 29 - Ambrosia tomentosa should be Ambrosia grayii. (Attachment III).

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS,  
room 423-S, Statehouse, at 7:00 a.m./~~p.m.~~ on March 29, 1990

Frances Kastner, Kansas Food Dealers Assn., testified on SB 767 voicing concern about their members being included in the definition on Page 6 (gg) lines 10-14 and considered a "seed dealer" for the purpose of paying an annual registration fee of \$50. She suggested that an exemption clarifying that "retailers who sell only pre-packaged, pre-labeled grass seed" would be appropriate. (Attachment IV).

Questions and answers followed the testimony.

Representative Ensminger moved to pass SB 767 favorably with Representative Samuelson giving second.

Representative Solbach made substitute motion to include technical changes and also indicate that the farmer would not be in violation of advertising prohibition by commercial means if he states in advertisement that the seed he's selling is untested. Seconded by Representative Shumway. Motion passes.

Representative Reinhardt made motion to conceptually set a fee at \$10 for those with retail dealers who would sell only pre-packaged, pre-labeled grass seed. Representative Solbach seconded the motion.

Representative Hamm made a substitute motion to amend saying it's unlawful for any person to apply for or be issued under public law 915-577, the Plant Variety Protection Act, a certificate of protection under Title V for any new wheat provided for by public funds. Seconded by Representative Wiard. Motion passed.

Representative Solbach made motion to conceptually set a fee at \$9 for those with retail dealers who would sell only pre-packaged and pre-labeled grass seed. Seconded by Representative Rezac. Motion passed.

Representative Ensminger made a motion to pass favorably SB 767 as amended. Seconded by Representative Bryant. Motion passed.

The minutes of March 21 and March 22 were approved by Chairman Roenbaugh without objection from the committee. Meeting adjourned at 7:57 a.m.



STATEMENT OF THE KANSAS FERTILIZER AND CHEMICAL ASSOCIATION  
TO THE HOUSE AGRICULTURE AND SMALL BUSINESS COMMITTEE  
REPRESENTATIVE SUSAN ROENBAUGH, CHAIRPERSON

REGARDING S.B. 767

MARCH 29, 1990

Madame Chairman and Members of the Committee, I am Chris Wilson, Director of Governmental Relations of the Kansas Fertilizer and Chemical Association (KFCA). KFCA's over 500 members are firms involved in the agricultural chemical industry. We appreciate the opportunity to speak in support of S.B. 767, which would address an inequity which has existed for many years in Kansas.

Historically, the fertilizer tonnage fee for inspections has been 30 cents since 1982. Prior to that time, the fee was 20 cents per ton. For many years, the Board of Agriculture has recognized that the fee charged for fertilizer inspections was in excess of the amount needed to administer the fertilizer inspection program. Our members have been aware of this for several years as well. No one was sure, however, just how much excess funds were being generated by the fertilizer fees.

When Harland Priddle was Secretary of Agriculture, he decided to cut the fee in half, decreasing it by 15 cents. However, it was realized that the funding generated by the fertilizer fee was also going to support the seed inspection program, and the Secretary came to our Association and asked if we would accept his not going forward with the decrease. We, of course, agreed.

KFCA has always tried to support the Board of Agriculture in any way possible. We believe the Board is a fair regulator and the staff of the Board of Agriculture does a very professional job.

Last year, the Board commissioned a study by a consulting firm, David M. Griffith and Associates, Ltd., to analyze their revenue sources and the cost of administering the various regulatory programs of the Board. As a result of this study, for the first time, we have as accurate as possible data on the cost of fertilizer-related programs. Even if you take into consideration any program remotely related to fertilizer, the tonnage fee is contributing an excess of about \$110,000 per year. This amounts to about \$1 million since 1982. Over the years, millions of dollars in excess have probably gone for other uses.

A chief use of the excess fertilizer fees is to fund the seed inspection program. Since a fee has never been established for seed dealers, there are no user fees available to support the seed inspection program.

The Board of Agriculture, after receiving the DMG study, determined to endeavor to make the fee structure as equitable as possible. They decided to propose a seed dealer registration fee and to administratively lower the fertilizer tonnage fee by an amount comparable to collections from the seed registration. The bill which you have before you, as amended by the Senate Agriculture Committee and passed by the Senate on a vote of 40-0, would establish a seed dealer registration fee.

KFCA members have grown weary and angry over the years of paying the excess tonnage fee. Historically, it is a cost of

doing business which has come out of our members pockets. Since the passage of the legislation last year raising the tonnage fee to \$1.70 and designating the additional \$1.40 for other purposes, however, the Association has strongly encouraged members to include the tonnage fee as an invoice item. Our surveys indicate that most retailers are now doing that. So, this is a cost now being borne directly by the producer.

The fact that a seed inspection fee does not exist should not mean that fertilizer users have to continue to pay the cost of the program. Other industries in Kansas have to contribute to regulation of their industries. Our members pay in in numerous ways and it's time that seed dealers did, too. These companies have never paid a penny for regulation of their industry and the privilege of doing business in this state. Companies which are in the business of selling seed commercially should pay.

Unfortunately, the level of fee they are being charged in this bill is not enough to cover the cost of their program, but it is an important step. It does mean that the fertilizer tonnage fee could only be adjusted by about 4 cents per ton. However, for many years, we have wanted a tonnage fee for funding key research projects at the agricultural experiment stations. It didn't seem practical or feasible to raise the tonnage fee when we knew it was already in excess of the cost of fertilizer regulation, especially when the water plan tax was added. Nor does it seem worthwhile to return 4 cents per ton. That margin, however, would provide approximately \$50,000 which can be used for important fertilizer-related research. That is why our

Association has voted to support the Senate proposal to direct those funds to research.

Representatives, this is a good bill. For the first time, the seed industry--commercial seed dealers--will be contributing toward the cost of the seed inspection program. This bill maintains the farmer exemption in the law. Further, it allows fertilizer-generated funds to go for fertilizer-related purposes. It provides for research to help us continue to do a better, more efficient job of using fertilizers and protecting the environment.

We respectfully urge your support for S.B. 767. I will be glad to respond to any questions you may have.

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# PUBLIC POLICY STATEMENT

HOUSE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS

RE: S.B. 767 ... Proposal to Amend the Fertilizer Inspection Fee and Seed Law

March 29, 1990  
Topeka, Kansas

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

Chairman Roenbaugh 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 certainly appreciate this opportunity to express our **support of S.B. 767** on behalf of the farmers and ranchers who are members of the 105 County Farm Bureaus.

S.B. 767 provides "**buyer protection**". The Kansas Seed Law is considered to be extremely liberal compared to other states. Some charge Kansas is often the dumping ground for inferior quality seed. Most Kansas farmers are demanding assurance that the seed they receive is indeed the quality they expect when making a purchase. To accomplish this goal, policy adopted by the 437 voting delegates representing the 105 County Farm Bureaus at the KFB Annual Meeting on December 5, 1989 requests:

## Seed Law

The Kansas Seed Law should protect both the buyer and seller of seed.

We will oppose any effort to prohibit any Kansas farmer from selling agricultural seed that is grown in Kansas on land operated by that farmer.

To provide more protection to the buyer of seed, we will support these changes in the law:

1. Require sellers of agricultural seed who advertise in the public media to sell only tested and labeled seed. Farmers who make occasional private treaty sales, or who advertise by erecting signs on their own property shall not be required to register or be licensed by the State Board of Agriculture.

2. Require registered sellers of agricultural seed who advertise in the public media to offer for sale only tested and labeled seed.
3. Establish a prohibition on the sale of agricultural seed containing "restricted" weed seed which is above the tolerance level allowed in current law, such prohibition to be similar to the current prohibition on the sale of agricultural seed containing any noxious weed seed.

We continue to support compliance with the Plant Variety Protection Act (PL 91-577).

Ag: SB  
3-29-90  
ATTACHMENT II



We are simply asking that all who operate a business of selling seed be required to sell **tested** and **labeled** seed ... seedsmen and farmers. This will **reduce** the spread of noxious and restricted weeds through seed sales. We are suggesting the criteria for determining which sellers are commercial businesses be limited to those who advertise in the public media. This is **not** a new concept. Several other states have this provision in existing law (see attachment). This does **not** keep a farmer from erecting signs on his property, posting notices on grain elevator bulletin boards, speaking to his neighbor, etc. This does **not** eliminate private treaty farmer-to-farmer sales of non-tested and unlabeled seed. In fact, we will strongly object to any amendment that will further change or repeal the "farmer exemption".

S.B. 767 creates the "Seed Dealers Registration Fee Fund" by establishing fees for seed dealers. This provision could be called "**truth in taxing**" ... limiting the use of fertilizer fees to fertilizer regulations and requiring the seed industry to provide the revenues to administer the seed law.

S.B. 767 also creates the "Fertilizer Research Fund" by redirecting the excess fertilizer inspection fees that are now collected. This will establish studies and recommendations concerning the effect of fertilizers on water quality and any environmental impacts. A number of other states are already doing this. While KFB does not have specific policy on this provision, we believe agriculture must be proactive on environmental issues. We believe results of such research could be very helpful to agriculture in responding to environmental extremists who often paint farmers as the guys wearing the "black hats".

This plan is a serious effort by the Kansas State Board of Agriculture, the Kansas Grain and Feed Association and Kansas Farm Bureau to improve the Kansas Seed Law:

S.B. 767 **will provide buyer protection.**

S.B. 767 **will reduce spread of noxious and restricted weeds.**

S.B. 767 **will establish "truth in taxing".**

S.B. 767 **does NOT prohibit anyone from advertising.**

S.B. 767 **does NOT change the FEDERAL Plant Variety Protection Act.**

S.B. 767 **does NOT repeal the "farmer exemption".**

We strongly encourage the approval of S.B. 767. We would be pleased to respond to any questions you might have. Thank you!

STATE	PERMIT OR REGISTRATION REQUIRED		TESTING AND LABEL REQUIRED		FARMERS REQUIREMENTS IF EXEMPT FROM LABELING OR REGISTERING/PERMIT
	FARMERS	DEALERS	FARMERS	DEALERS	
Nebraska	NO	NO	YES	YES	No exemption from labeling for farmers/growers.
Missouri	YES \$5	YES \$5	NO	YES	1. Can advertise however cannot state germination or other tests in advertisement. 2. Cannot use a common carrier to deliver seed. 3. Cannot sell seed by any public sales service. 4. Must be of their own production.
Oklahoma	YES	YES	YES	YES	No exemption from permit or labeling for farmers/growers.
Colorado	NO	YES	NO	YES	1. Must sell own premises. 2. Cannot use common carrier. 3. Cannot advertise.
Iowa	NO	YES	YES	YES	No exemption from labeling for farmers/growers.
Texas	NO	YES	NO	YES	1. Must be of their own production on own farm. 2. Cannot advertise in public media outside their own county. 3. Cannot be sold through someone other than the farmer. 4. Cannot ship by common carrier.
South Dakota	NO	YES	NO	YES	1. Must be grown, sold and delivered on the farmer's premises. 2. Cannot take to community sales for sale. 3. Cannot publicly advertise. 4. Cannot contain noxious weeds.
North Dakota	NO	YES	NO	YES	1. Must be of their own production. 2. Cannot advertise. 3. Cannot use a third party as an agent or broker.
Illinois	NO	YES	YES	YES	No labeling exemption. Exempt from permit for own seed sold on own premises.
Arkansas	NO	YES	YES	YES	No labeling exemption.
Kansas	NO	NO	NO	YES	1. Can advertise. 2. Can use common carrier. 3. Must grow and sell on premises. 4. Must be free from noxious weeds.

HOUSE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS

March 29, 1990

Good Morning Madam Chairperson and members of the House Committee on Agriculture and Small Business. My name is Larry D. Woodson, Director, Division of Inspections, Kansas State Board of Agriculture. I am here to testify in support of Senate Bill 767.

I wish to first revisit the Board's position on the Kansas Seed Law which was and is as follows:

1. The Seed Law should provide for the registration of all seed dealers with a registration fee of at least \$10.
2. Growers who commercially advertise seed for sale should also register and pay a registration fee of \$10.
3. All seed sold by dealers or commercially advertised for sale in the news media should be tested and labeled.
4. All seed sold by dealers or commercially advertised in the news media should be in compliance with both noxious and restricted weed requirements.
5. Any revenues realized by the registration and collection of registration fees of seed dealers and growers who advertise should be offset by a reduction to the fertilizer tonnage fees collected.

The purpose of these five points was to identify the sellers of seed, subject them to fees used for operating an inspection program, insure that high quality and properly labeled seed is sold in Kansas and that noxious and restricted seed is not illegally disseminated requiring expensive chemical or other control measures that could adversely impact upon our environment or upon the quality of our water, and to establish more equity in the funding of regulatory programs, i.e. reduce fertilizer fee fund use for seed law enforcement.

Ag & SB  
3-29-90  
ATTACHMENT III

Senate Bill 767 does address the Board of Agriculture's points as follows:

Fee funds generated by the registration of seed dealers and farmer dealers is expected to generate \$59,650 (742 seed dealers @ \$50 each and 2,255 farmer-dealers @ \$10 each. Most current figures (from the David M. Griffith & Associates study commissioned by the Kansas State Board of Agriculture) shows the total cost of the seed law enforcement to be \$61,807 in 1989.

Senate Bill 767 as amended re-directs \$.04 per ton of the fertilizer funds collected by the Kansas State Board of Agriculture to research on fertilizer and anhydrous ammonia concerning efficient methods of application, storage and handling, their effect upon environmental quality, and efficiency and safety in the use of fertilizer and anhydrous ammonia in crop production.

Senate Bill 767 does require that growers who commercially advertise register and pay the appropriate fee. If a person is a farmer-dealer, the parent company pays.

Senate Bill 767 does maintain a grower exemption that allows for farmer-to-farmer sales of untested and unlabeled seed as long as the prerequisites are met as set out on page 7 of the bill.

In conclusion, it meets the Board's objectives, it provides a seed law more consistent with surrounding states, it offers consumer protection to farmers and urban consumers (who purchase valuable grass seed for their lawns), and it generates revenue from the registration of individuals or companies who place seed on the market. We also believe it gives encouragement to seed breeders that invest dollars and years into research for improved varieties that will benefit Kansas Agriculture in the long run.

On page 3, line 29, *Ambrosia tomentosa* should be *Ambrosia grayii*.

We stand for questions.

STATE	PERMIT OR REGISTRATION REQUIRED		TESTING AND LABEL REQUIRED		FARMERS REQUIREMENTS IF EXEMPT FROM LABELING OR REGISTERING/PERMIT
	FARMERS	DEALERS	FARMERS	DEALERS	
Nebraska	NO	NO	YES	YES	No exemption from labeling for farmers/growers.
Missouri	YES \$5	YES \$5	NO	YES	<ol style="list-style-type: none"> <li>1. Can advertise however cannot state germination or other tests in advertisement.</li> <li>2. Cannot use a common carrier to deliver seed.</li> <li>3. Cannot sell seed by any public sales service.</li> <li>4. Must be of their own production.</li> </ol>
Oklahoma	YES	YES	YES	YES	No exemption from permit or labeling for farmers/growers.
Colorado	NO	YES	NO	YES	<ol style="list-style-type: none"> <li>1. Must sell own premises.</li> <li>2. Cannot use common carrier.</li> <li>3. Cannot advertise.</li> </ol>
Iowa	NO	YES	YES	YES	No exemption from labeling for farmers/growers.
Texas	NO	YES	NO	YES	<ol style="list-style-type: none"> <li>1. Must be of their own production on own farm.</li> <li>2. Cannot advertise in public media outside their own county.</li> <li>3. Cannot be sold through someone other than the farmer.</li> <li>4. Cannot ship by common carrier.</li> </ol>
South Dakota	NO	YES	NO	YES	<ol style="list-style-type: none"> <li>1. Must be grown, sold and delivered on the farmer's premises.</li> <li>2. Cannot take to community sales for sale.</li> <li>3. Cannot publicly advertise.</li> <li>4. Cannot contain noxious weeds.</li> </ol>
North Dakota	NO	YES	NO	YES	<ol style="list-style-type: none"> <li>1. Must be of their own production.</li> <li>2. Cannot advertise.</li> <li>3. Cannot use a third party as an agent or broker.</li> </ol>
Illinois	NO	YES	YES	YES	No labeling exemption. Exempt from permit for own seed sold on own premises.
Arkansas	NO	YES	YES	YES	No labeling exemption.
Kansas	NO	NO	NO	YES	<ol style="list-style-type: none"> <li>1. Can advertise.</li> <li>2. Can use common carrier.</li> <li>3. Must grow and sell on premises.</li> <li>4. Must be free from noxious weeds.</li> </ol>



United States  
Department of  
Agriculture

Agricultural  
Marketing  
Service

Washington,  
D.C.  
20250

*File in [unclear] LAM 4-21*  
NOV 15 1982

TO: Seed Control Officials, Seed Certification Officials  
Seedsmen, Farm Organizations

*Don Ator*

FROM: Donald W. Ator, Chief, Seed Branch

SUBJECT: Further Comments on Title V and the "Farmer's Exemption"

In our October 6 memorandum, you were advised that the "Farmer's Exemption" in the Plant Variety Protection Act (PVPA) extends to Federal Seed Act (FSA) Title V.

Under Title V of the FSA it is illegal to sell or offer for sale or advertise, by variety name, uncertified seed of "Title V varieties". (A "Title V variety" is a variety covered by a certificate of plant variety protection specifying sale only as a class of certified seed.)

Wording from PVPA's "Farmer's Exemption" (section 113 of the PVPA, 7 U.S.C. §2543) follows:

"\* \* \* it shall not infringe any right hereunder for a person, whose primary farming occupation is the growing of crops for sale for other than reproductive purposes, to sell such saved seed to other persons so engaged, for reproductive purposes, provided such sale is in compliance with such State laws governing the sale of seed as may be applicable \* \* \*"

Because of PVPA's "Farmer's Exemption", farmer-to-farmer sales, by variety name, of uncertified seed of "Title V varieties" do not violate Title V of the FSA if the sale complies with State law.

However, the exemption does not extend to advertising. An advertiser must be offering properly certified seed to be safely in compliance with FSA, Title V.

In addition to the above clarification, we find it important to emphasize that in addition to the sanctions imposed by Title V of the FSA, infringement of a Plant Variety Protection Certificate makes the infringer, farmer or others, liable to civil litigation by the certificate owner.

A recent Federal District Court decision not only penalized a defendant farmer for infringement of a Protection Certificate, but permanently enjoined and restrained the defendant farmer, and all of his agents, employees, and others in participation with him, during the protection rights, "from selling, offering, advertising, or exposing for sale, delivering, shipping, consigning, exchanging, soliciting an offer to buy, or otherwise participating in a transfer of title or possession of - - - seed wheat to any person or entity, except for the sale of - - - variety seed wheat as may be sold with the permission of" the protection owner. The decision further enjoined the defendant farmer "from labeling, representing or otherwise identifying or promoting as - - - any plant or seed thereof, except - - - variety wheat, certified by appropriate State seed certification agencies."





United States  
Department of  
Agriculture

Agricultural  
Marketing  
Service

Washington,  
D.C.  
20250

OCT 6 1982

TO: Seed Control Officials  
Seed Certification Officials  
Seedsmen  
Farm Organizations

FROM: Donald W. Ator, Chief  
Seed Branch

SUBJECT: Title V (7 U.S.C. 1611)

① An analysis by the Office of General Counsel (OGC) dated October 4, 1982, concludes that the "Farmer's Exemption" contained in the Plant Variety Protection Act extends to Federal Seed Act Title V. The exemption is narrow in that it exempts only a bona fide farmer in selling seed to another bona fide farmer (it does not exempt the recipient farmer) and the seed sale must comply with the applicable State seed law. State seed laws vary on "Farmer's Exemption" provisions.

The following is the text of the opinion from OGC.

Title V of the Federal Seed Act ("FSA") states:

It shall be unlawful in the United States or in interstate or foreign commerce to sell or offer for sale or advertise by variety name seed not certified by an official seed certifying agency when it is a variety for which a certificate of plant variety protection under the Plant Variety Protection Act specifies sales only as a class of certified seed: Provided, that seed from a certified lot may be labeled as to variety name when used in a mixture by, or with the approval of, the owners of the variety. (emphasis added).

The Plant Variety Protection Act ("PVPA") provides for the issuance of certificates for novel varieties of seed which specify whether the variety is to be sold only as a class of certified seed. The PVPA provides for private civil action by the owner of the certified seed for infringements of the PVPA certificates (7 U.S.C. §2561). However, all PVPA certificates are subject to a farmer exemption (section 113 of the PVPA (7 U.S.C. §2543)). This exemption permits the farmer whose "primary farming occupation is the growing of crops for sale for other than reproductive purposes, to sell such (noncertified) seed for reproductive purposes to other persons so engaged" even though the certificate specifies sale only as a class of certified seed. (House Report No. 71-1605, 91st Cong., 2nd sess., pg. 11 (October 13, 1970)). Therefore, even as a class of certified seed, section 113 of the PVPA provides this limited exemption for farmer-to-farmer sales.





Title V of the FSA was implemented simultaneously with the PVPA to provide for civil and criminal sanctions for infringements of PVPA certificates. Title V, referencing back to the PVPA, must be read as an integral part of and as complementing the PVPA. Therefore, it is clear that Title V must be enforced within the framework of the PVPA. To argue otherwise would be to hold that a farmer is exempt from civil liability for certificate infringement if he sells seed to a neighboring farmer but is nevertheless subject to civil and criminal sanctions under the FSA for legal actions brought by the U.S. Government.



# Kansas Food Dealers' Association, Inc.

2809 WEST 47th STREET SHAWNEE MISSION, KANSAS 66205

PHONE: (913) 384-3838  
FAX: (913) 384-3868

March 29, 1990

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VICE-PRESIDENT  
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DIRECTOR OF  
GOVERNMENTAL AFFAIRS

FRANCES KASTNER

## SENATE BILL 767

### HOUSE AGRICULTURE & SMALL BUSINESS COMM.

EXECUTIVE DIRECTOR  
JIM SHEEHAN  
Shawnee Mission

Our membership includes retailers, wholesalers, and distributors of food products and other items sold for the convenience of consumers. In this instance, I am referring to the sale of lawn seed, which I understand is included in SB 767, as Amended by the Senate Agriculture Committee under the broad term of "agricultural seed" found on lines 39-41 on page 2.

Before the bill was discussed in the Senate Committee of the Whole, I expressed my concerns about our members being included in the definition on Page 6 (gg) lines 10-14 and considered a "seed dealer" for the purpose of paying an annual registration fee of \$50. We suggested that an exemption clarifying that "retailers who sell only pre-packaged, pre-labeled grass seed" would be appropriate.

The Chairman and Vice Chairman of the Senate Agriculture Committee first doubted it would include our members, but after affirming the fact that it would, their suggestion was for me to ask this Committee to address our problem rather than try to amend it on the floor of the Senate. Although the bill passed 40 to 0, I have the feeling that many Senators did not know the full extent of coverage under SB 767.

We believe it is no more logical or necessary to require an annual registration fee for retailers to sell pre-packaged and pre-labeled grass seed than it would be to require a registration fee for selling each and every other item in a store that is sold in the exact same condition as it leaves the manufacturer.

If this Committee decides to pass SB 767 out of Committee, we request you give retailers selling only pre-packaged, pre-labeled grass seed an exemption from the requirement of the \$50 annual registration fee.

Thank you for the opportunity to express our views.

*Frances Kastner*  
Frances Kastner, Director  
Kansas Food Dealers Assn.

AG. & SB  
3-29-90  
ATTACHMENT IV