

Approved March 4, 1991
Date

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE

The meeting was called to order by Representative Lee Hamm at
Chairperson

9:00 a.m./~~p.m.~~ on Tuesday, February 26, 1991 in room 423-S of the Capitol.

All members were present except: Representative Wisdom, excused

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

Conferees appearing before the committee: Alan F. Alderson, Attorney, Western Retail
Implement and Hardware Association
Tom Lutgen, Kansas Seed Industry Assn.,
Osborne
Larry Woodson, Director, Division of
Inspections, Kansas State Board of
Agriculture
Chris Wilson, Director of Governmental
Relations, Kansas Fertilizer and Chemical
Association, Inc.

Chairman Hamm opened hearings on HB 2360 - registration of seed dealers.

Alan Alderson, appearing on behalf of the Western Retail Implement and Hardware Association, testified in support of HB 2360 which was introduced by this committee at their request.

Mr. Alderson stated the problem sought to be solved in HB 2360 was caused by amendments made by the 1990 Legislature in SB 767 (1990 Kansas Session Laws, chapter 4). Under the amendments made to the seed registration laws in 1990, hardware and home center dealers who buy bulk grass seed in prepackaged, prelabeled packages and who break those bulk packages into smaller packages for sale at retail would now be considered "seed dealers" who are responsible for paying an annual registration fee of \$50. Under prior law, these dealers were simple "retailers" for whom a \$20 annual fee was to be paid by their suppliers. We cannot believe it was really the intent of the Legislature to suddenly convert the common practice of breaking open and repackaging bulk grass seed to constitute the activities of a seed dealer further stated Mr. Alderson.

Mr. Alderson presented the committee with a proposed amendment to HB 2360 which would correct this problem. (Attachment 1).

Mr. Alderson also informed the committee that he had requested on behalf of the Western Retail Implement and Hardware Association HB 2357 and is now asking the committee to withdraw consideration of this bill as he has been advised by legal counsel that this bill would probably not have the effect that was intended and it would be a mistake for the dealers to rely on it.

Tom Lutgen, President, Kansas Seed Industry Assn., testified that the association would support HB 2360 if it includes the amendment offered by Mr. Alderson.

Larry Woodson, Kansas State Board of Agriculture, testified on HB 2360 stating the Board is neutral and that their objectives are to provide a fair and uniform seed law that generates adequate revenue to pay for program costs, offer consumer protection to farmer and urban consumers

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE

room 423-S Statehouse, at 9:00 a.m./~~p.m.~~ on Tuesday, February 26, 1991

alike, to maintain quality seed in Kansas, to restrict the sale of harmful and expensive noxious and restricted weed seeds, and to establish a level playing field for developers, wholesalers, retailers and consumers. (Attachment 2).

Chris Wilson, Kansas Fertilizer and Chemical Association, Inc., testified before the committee stating their association does not oppose this change in HB 2360 since these firms are selling only grass seed and not other agricultural seeds and since they believe this will not bring revenues below the amount needed to administer the program. (Attachment 3).

A question and answer period followed each testimony.

Representative Gatlin moved to adopt the amendment to HB 2360. The motion was seconded by Representative Wempe. The motion carried.

Representative Freeman made a motion that HB 2360 be passed as amended. Representative Correll seconded the motion. Motion passed.

Representative Bryant made a motion to approve minutes of February 21 and February 25, 1991. Representative Neufeld seconded the motion. Motion passed.

The meeting adjourned at 9:35 a.m. The next meeting of the House Agriculture Committee will be at 9:00 a.m., Wednesday, February 27, 1991, in room 423-S, State Capitol.

ALDERSON, ALDERSON, MONTGOMERY & NEWBERY

ATTORNEYS AT LAW

2101 S.W. 21ST STREET

P.O. BOX 237

TOPEKA, KANSAS 66604-3174

W. ROBERT ALDERSON, JR.
ALAN F. ALDERSON
STEVEN C. MONTGOMERY
C. DAVID NEWBERY
JOSEPH M. WEILER
JOHN E. JANDERA
DANIEL B. BAILEY

TELEPHONE:
(913) 232-0753
FAX:
(913) 232-1866

MEMORANDUM

TO: HOUSE COMMITTEE ON AGRICULTURE

FROM: ALAN F. ALDERSON, ATTORNEY, WESTERN RETAIL IMPLEMENT
AND HARDWARE ASSOCIATION

RE: HOUSE BILL NO. 2360

DATE: FEBRUARY 26, 1991

I am Alan Alderson, appearing today on behalf of the Western Retail Implement and Hardware Association, an association whose membership includes approximately 218 retail hardware dealers, lumber dealers and home improvement centers. In addition, there are approximately 685 hardware stores in Kansas that are not members of the association. On behalf of the Western Association, I appear in support of House Bill No. 2360, which was introduced by this Committee at our request.

The problem sought to be solved in House Bill No. 2360 was caused by amendments made by the 1990 Legislature in Senate Bill No. 767 (1990 Kansas Session Laws, chapter 4). Under the amendments made to the seed registration laws in 1990, hardware and home center dealers who buy bulk grass seed in prepackaged, prelabeled packages and who break those bulk packages into smaller packages for sale at retail would now be considered "seed dealers" who are responsible for paying an annual registration fee of \$50. Under prior law, these dealers were simply "retailers" for whom a \$20 annual fee was to be paid by their suppliers. We cannot believe it was really the intent of the Legislature to suddenly convert the common practice of breaking open and repackaging bulk grass seed to constitute the activities of a seed dealer.

We have received correspondence from a number of hardware dealers who have indicated they will probably discontinue the practice of making smaller quantities of grass seed available if they have to pay the \$50 annual registration fee. I am advised that part of the problem addressed by this bill is the fact that the suppliers have not really been paying the \$20 registration fees for each of their retailers. This fact should not provide justification to start charging \$50 to retailers who simply break open and repackage grass seed.

Under House Bill No. 2360, a retail business selling only grass seed would be excluded from the definition of a "seed dealer" and retail businesses who sell only grass seed, and not any other agricultural seed, either in prepackaged, prelabeled form or by breaking bulk prepackaged, prelabeled

HS. Ag.
2-26-91
ATTACHMENT 1

grass seed into smaller quantities, would be required to register but would retain their status as a retail business for whom a seed dealer is required to pay the \$20 annual fee.

In the spirit of compromise and because we have been advised the difficulty of having seed dealers pay the fees on behalf of their retail businesses, we would be willing to have the legislation further amended to provide that retail businesses who break open bulk prepackaged, pre-labeled grass seed for sale in smaller quantities would pay their own \$20 registration fee for that privilege. We are not proposing that any other retailer pay their own registration fee -- only those who want to break it open and repackage it. This fee would seem to be more in line with the nature of the business being conducted and would divorce these retailers from being categorized as a seed dealer with the highest fee category. This amendment, I understand, would make this bill very acceptable to the Board of Agriculture, the Kansas Grain and Feed Dealers Association, the Kansas Farm Bureau and the Kansas Seed Industry Association.

Our hardware and home center members believe they are performing a valuable service to their communities by making small quantities of grass seed available to homeowners. Under the legislation as it now exists, these members would be both retailers and seed dealers for whom at least \$70 in fees would be paid -- \$50 by the hardware store and \$20 by each supplier. Under the provisions of House Bill No. 2360, our members believe they could continue to justify this low-profit practice of reselling grass seed in two-pound, five-pound and ten-pound quantities. Even if you believe the retailer should pay its own fee under these circumstances, we would be far better off than we are under the existing law. We would urge you to support House Bill No. 2360 for these reasons, and I would be happy to work with your staff on the needed amendments.

PROPOSED AMENDMENT TO HB 2360

On page 5, in line 16, preceding the word "grass" by inserting "prepackaged, prelabeled"; by striking all of line 18; by striking all of line 19 before the word "for"; in line 20, after the period, by inserting a new sentence to read as follows: "Each retailer who sells grass seed only, and who sells such grass seed by breaking bulk prepackaged, prelabeled grass seed into smaller quantities, shall pay a fee of \$20, which fee shall be in addition to any fees payable by a seed dealer on behalf of the retail business."

HOUSE AGRICULTURE COMMITTEE

February 26, 1991

Good Morning, Mr. Chairman and members of the House Committee on Agriculture. My name is Larry D. Woodson, Director of the Division of Inspections, Kansas State Board of Agriculture. I am here to testify on House Bill 2360.

Prior to addressing the specifics of House Bill 2360, I would like to revisit the Board of Agriculture's position on the Kansas Seed Law.

1. The Seed Law should provide for the registration of all seed dealers or wholesalers and should include a registration fee.
2. Retailers or growers who commercially advertise seed for sale should also register and pay a registration fee.
3. All seed sold by dealers or commercially advertised for sale should be tested and labeled.
4. All seed sold by dealers or commercially advertised should be in compliance with noxious and restricted weed requirements.

The purpose of the Seed Law is to identify the sellers of seed, equitable collection of fees for the operation of the inspection program, and to insure that high quality and properly labeled seed is sold in Kansas that does not contain noxious and restricted weed seeds which if present, may require expensive chemical or other control measures that could have an adverse impact upon our environment.

HS. AB.
2-26-91
ATTACHMENT 2

Last year we testified that the cost of administering the Kansas Seed Law was estimated at \$61,807.

For Fy '91 we forecasted the revenues to be generated from the following sources:

127 Seed Dealers @ \$50	= \$ 6,350
2255 Farmer Dealers @ \$10	= \$22,550
615 Retail Outlets @ \$20	= <u>\$12,300</u>
	\$41,200

As of February 18, 1991 our revenues were as follows:

867 Seed Dealers @ \$50	= \$43,350
1525 Farmer Dealers @ \$10	= \$15,250
167 Retail Outlets @ \$20	= <u>\$ 3,340</u>
	\$61,940

Difference in receipts vs. projected cost of the program - \$133.

House Bill 2360 would allow retail outlets to repackage grass seed from bulk into smaller retail amounts and remain in the retail fee category rather than being requiring to register at the seed dealer rate. Based on current registrations, we estimate that 132 registrants would shift from a \$50 fee to a \$20 fee for a reduction in revenue of \$3,960.

Again using current figures we would be receiving \$57,980 or \$3,827 less than what was estimated as needed to operate the Kansas Seed Law Program.

Based on information received from dealers and retailers, there are several firms and individuals that have not registered to date. As seed is moving out, through distributor channels, decisions will

have to be made by the dealers/wholesalers as to which outlets they plan to register and pay the fee.

In general, our objectives are to provide a fair and uniform seed law that generates adequate revenue to pay for program costs, offer consumer protection to farmer and urban consumers alike, to maintain quality seed in Kansas, to restrict the sale of harmful and expensive noxious and restricted weed seeds, and to establish a level playing field for developers, wholesalers, retailers and consumers.

We stand for questions.



KANSAS FERTILIZER AND CHEMICAL ASSOCIATION, INC.

816 S.W. Tyler St. P.O. Box 1517 A/C 913-234-0463 Topeka, Kansas 66601-1517

STATEMENT OF THE

KANSAS FERTILIZER AND CHEMICAL ASSOCIATION

TO THE HOUSE AGRICULTURE AND SMALL BUSINESS COMMITTEE

REPRESENTATIVE LEE HAMM, CHAIRPERSON

REGARDING H.B. 2360 CONCERNING THE SEED LAW

FEBRUARY 26, 1991

Mr. Chairman and Members of the Committee, I am Chris Wilson, Director of Governmental Relations of the Kansas Fertilizer and Chemical Association (KFCA). KFCA is the professional trade organization of the state's agricultural chemicals industry. Our approximately 550 members are retailers, distributors and manufacturers of ag chemicals and firms that service the industry. We appreciate the opportunity to comment on H.B. 2360.

Last year, KFCA supported establishing fees for seed dealers since historically fertilizer tonnage fees had paid for the seed inspection program. We believe it is fair for the seed industry to pay its own way, which they were willing to do. We appreciate that the Legislature last year provided for fertilizer tonnage fees which had previously paid for the seed inspection program to be used for fertilizer and related environmental research.

Mr. Alderson has informed us of the intent of his organization to propose that those retailing repackaged grass seed pay a

*HS. AG.
2-26-91
ATTACHMENT 3*

\$20 fee instead of the current \$50. Since these firms are selling only grass seed and not other agricultural seeds and since we believe that this will not bring revenues below the amount needed to administer the program, we do not oppose this change.

Thank you for this opportunity to comment. I will be glad to respond to any questions you may have.

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