

Approved March 21, 1991
Date

MINUTES OF THE Senate COMMITTEE ON Agriculture

The meeting was called to order by Senator Jim Allen at
Chairperson

10:05 a.m./~~XX~~ on March 20, 1991 in room 423-S of the Capitol.

All members were present except: Senator Doyen (excused)

Committee staff present: Raney Gilliland, Legislative Research Department
Lynne Holt, Legislative Research Department
Jill Wolters, Revisor of Statutes Department

Conferees appearing before the committee: Larry Woodson, Director, Division of Inspections,
State Board of Agriculture
Dwight Haddock, Associated Milk Producers, Wichita
Larry Powers, Steffens Dairy, Wichita
Harold Bailey, dairy farmer, Mid-America
Dairymen, Manhattan
Chris Wilson, Kansas Grain and Feed Association
Tom Lutgen, Kansas Seed Industry Association,
Osborne, Kansas
Alan Alderson, Western Retail Implement and
Hardware Association
Frances Kastner, Kansas Food Dealers Association

Senator Allen called the Committee to order and attention to HB 2359 and then called on the following proponents to testify.

Larry Woodson gave the Committee copies of his testimony (attachment 1) and requested the Committee recommend passage of HB 2359.

Dwight Haddock expressed support for HB 2359 which he explained would allow Kansas companies to be competitive with out-of-state companies. Mr. Haddock provided the Committee with copies of his testimony (attachment 2).

Mr. Haddock answered that out-of-state dairy product companies are allowed to offer coupons/refunds for their products but Kansas companies are not allowed to offer coupons/refunds. Mr. Haddock answered that now it is really illegal for out-of-state companies to offer coupons/refunds in Kansas but that the Attorney General does nothing to stop them.

Larry Powers furnished copies of his testimony (attachment 3) and expressed support for HB 2359 explaining that passage would benefit both the farmers and consumers in Kansas.

Harold Bailey gave the Committee copies of his testimony (attachment 4) and expressed support for and requested the Committee recommend passage of HB 2359.

The Chairman declared the hearing closed for HB 2359; turned Committee attention to HB 2360; and then called on the following to testify.

Larry Woodson gave the Committee copies of his testimony (attachment 5) and explained that the registration of seed dealers provided a list for inspections which are made to make sure the seed is clean and not outdated. Mr. Woodson explained that registration fees are used to fund the inspection program.

Alan Alderson expressed support for HB 2360 and provided the Committee with copies of his testimony (attachment 6).

Mr. Alderson answered that he had no objection to an amendment that would clarify that grass seed and not other agricultural seeds was the seed referred to in HB 2360.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Agriculture,
room 423-S, Statehouse, at 10:05 a.m. ~~XXX~~ on March 20, 1991

Chris Wilson explained that she had testified in the House Agriculture Committee in favor of HB 2360 but that there now seemed to be some questions. Ms. Wilson requested that further study be given the bill as to defining who a seed dealer is and that study be given to the financing so that the program is funded. Ms. Wilson stated that the issue of why and how wholesalers could or want to refuse to follow a law about registering should be addressed. Ms. Wilson stated that she would like to meet with ones who study this issue to help solve the problems before Committee action is taken.

Tom Lutgen gave the Committee copies of his testimony (attachment 7) and explained that he had changed from a proponent to an opponent as the discussion had proven there is confusion about the understanding of the bill and its intention.

Frances Kastner stated that she had no objection to HB 2360 as long as the bill does not include retailers that sell small packages of horticulture seeds, that is, packages that are prepackaged and prelabeled.

Mr. Woodson answered that horticulture seeds are not included in the inspection program but that the program refers to grass seeds.

The Chairman announced the appointment of a subcommittee to include Senator Francisco, Senator Lee and Senator Montgomery to work out the misunderstandings, the definition suggested and a funding schedule. Senator Montgomery was appointed Chairman. The subcommittee report is to be ready for the Committee at 10:00 on March 27 when action will be taken by the Committee.

The Chairman called attention to the fact that this day is Agriculture Day and requested the Committee recommend an 'Ag Proclamation' be recommended for introduction by the Senate.

Senator Harder made a motion the Committee request the introduction of the 'Ag Proclamation' in the Senate this day. Motion was seconded by Senator Daniels. Motion carried.

The Chairman called for action on HB 2359.

Senator Montgomery made a motion the Committee recommend HB 2359 favorable for passage. Senator Daniels seconded the motion; motion carried.

The Chairman called for action on Committee minutes.

Senator Sallee made a motion the Committee minutes of March 7 be approved. Motion seconded by Senator Daniels. Motion carried.

Senator Allen adjourned the Committee at 10:50 a.m.

SENATE AGRICULTURE COMMITTEE

March 20, 1991

Mr. Chairman, Members of the Senate Agriculture Committee, my name is Larry D. Woodson, Director of the Division of Inspections for the Kansas State Board of Agriculture. I am here today to testify on behalf of House Bill No. 2359.

House Bill 2359 which would amend K.S.A. 50-503 of the Dairy Unfair Trade Practices Act would allow dairy processors to promote dairy products by allowing coupons for dairy products to be offered to consumers. In a recent poll of other states, Nebraska, Oklahoma and Wisconsin allow coupons for dairy products without restrictions. Iowa and Missouri allow coupons with the condition that they apply to any brand of dairy product and Colorado allows coupons with the stipulation that the coupons be filed with the state prior to issuance.

When K.S.A. 50-503 was originally enacted, there was a concern that small dairy processors could be forced out of business by larger companies providing incentives to those who purchase their product. The business climate in the dairy industry has changed since K.S.A. 50-503's original enactment and HB 2359 attempts to create a "level playing field" for Kansas Dairy Processors by allowing them to offer coupons for dairy products in advertisements and on the sides of milk cartons, the same as other states.

Senate Agriculture Committee
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attachment 1

attach 1
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There would be no fiscal impact on this agency should HB 2359 be adopted as written. The Dairy Inspection program is not empowered with the enforcement of K.S.A. 50-501 et seq. and does not devote resources to it. The adoption of HB 2359 would not require any change in present policy.

In conclusion, the Kansas State Board of Agriculture has no opposition with this bill. We feel that it does create a more equitable marketing situation that allows Kansas Dairy Processors to compete equally with out-of-state businesses regarding the use of coupons.

That is the extent of our prepared text, I now stand for questions.



ASSOCIATED MILK PRODUCERS Inc.

1601 SOUTH SHERIDAN, WICHITA, KANSAS 67213-1339, PHONE (316) 942-2251

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MARCH 20, 1991

TO MEMBERS OF THE SENATE AGRICULTURE COMMITTEE

I WOULD LIKE TO INTRODUCE MYSELF TO YOU. I AM DWIGHT HADDOCK, DIVISION MANAGER FOR ASSOCIATED MILK PRODUCERS, INC. WE SERVE AS A MARKETING CO-OP FOR THE DAIRY FARMERS OF THE STATE OF KANSAS.

I AM HERE TO SPEAK IN FAVOR OF THE CHANGES PROPOSED IN THE ACT CONCERNING DAIRY PRODUCTS WHICH RELATE TO UNFAIR TRADE PRACTICES IN HOUSE BILL NO. 2395.

WE FEEL THE REMOVAL OF THE WORDS "OR CONSUMER", ON LINE 18, WILL PUT THE DAIRY PROCESSING IN THE STATE OF KANSAS ON AN EQUAL COMPETITIVE BASE WITH PROCESSING PLANTS IN THE STATES AROUND US. THE PRESENT PRACTICES HAVE ALLOWED PLANTS FROM THE SURROUNDING STATES TO OFFER SALES INCENTIVES TO CONSUMERS ON THEIR PACKAGES. AT THE PRESENT TIME THIS IS NOT POSSIBLE ON DAIRY PRODUCTS PROCESSED WITHIN THE STATE OF KANSAS. IF THIS PRACTICE IS TO CONTINUE WE FEEL THAT WE COULD LOSE THE MARKETS WE HAVE AT THE PRESENT TIME OR OUR RAW MILK. THIS WOULD REQUIRE US TO SHIP OUR PRODUCTS TO OUT OF STATE PROCESSING PLANTS TO BE PROCESSED AND SHIPPED BACK TO KANSAS FORCING THE CONSUMER TO PAY A HIGHER PRICE FOR THE DAIRY PRODUCTS IN THE STORE.

Senate agriculture Committee
3-20-91
attachment 2

To Members of the Senate Agriculture Committee

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THIS IS OF SPECIAL INTEREST TO THE DAIRY FARMERS WITHIN THE STATE OF KANSAS IN MAINTAINING THE PRESENT MARKETS WHICH ARE AVAILABLE FOR OUR PRODUCTS. THE COST OF MOVING THE MILK TO PLANTS IS A MAJOR EXPENSE TO THE DAIRY OPERATION. THE PRICE PAID FOR OUR PRODUCT HAS DROPPED BY ONE THIRD IN THE LAST FEW MONTHS, PUTTING OUR INDUSTRY IN ROUGH TIMES, WITHOUT ANY INCREASES IN THE COST OF TRANSPORTATION.

THE DELETION OF LINES 27 TO 42 WAS MADE BECAUSE THESE STATEMENTS WERE NECESSARY TO ALLOW DAIRIES TO COMPLY WITH THE LAW WHEN IT WAS FIRST INACTED. THESE STATEMENTS ARE NO LONGER NEEDED.

attach 3
120



STEFFEN DAIRY FOODS COMPANY Phone (316) 267-4221 / 700 East Central / Wichita, Kansas 67202-1091

March 20, 1991

To The Members of the Senate Agriculture Committee

I would like to introduce myself to you.
I am Larry Power, General Sales Manager for
Steffen Dairy Foods Company, Wichita, Kansas.

I am here to speak in favor of the changes
proposed in the act concerning dairy products
which relate to unfair trade practices in
House Bill No. 2395.

The present practices have allowed both ice
cream and dairy items to be used as sales
incentives to the consumers from out of state
producers.

We feel, given the opportunity to participate,
this practice would not only be beneficial for
ourselves but also the farmers and consumers
in Kansas.

Sincerely,

Larry Power
Steffen Dairy Foods Company

Senate agriculture committee

3-20-91

attachment 3

I am Harold Bailey, a Dairy Farmer from Manhattan, Kansas. Today I will bring forth the views of MID-AMERICA DAIRYMEN, a milk marketing cooperative.

We are in support of House Bill 2359. Our greatest concern is in the deletion of the words "or consumer" on line 18 of the first page. By removing these words we feel that the processors in Kansas can maintain a competitive share of the market. This also allows for more promotion of the products produced in Kansas.

We are also in favor of updating of the Bill so that the Kansas dairy industry can keep up with the changing times of today.

we would very much appreciate your support. Thank you.

Senate Agriculture Committee

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attachment 4

attachment
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SENATE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS

March 20, 1991

Good Morning, Mr. Chairman and members of the Senate Committee on Agriculture and Small Business. 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 should be in compliance with noxious and restricted weed requirements.

The purpose of the Seed Law is to identify the sellers of seed, provide for 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.

Senate Agriculture Committee

3-20-91

attachment 5

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

For FY 1991 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 March 19, 1991 our revenues were as follows:

910 Seed Dealers @ \$50	= \$ 45,500
1,569 Farmer Dealers @ \$10	15,690
235 Retail Outlets @ \$20	= <u>4,700</u>
	\$ 65,890

Difference in receipts vs. projected cost of the program = +\$4,083.

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 200 registrants would shift from a \$50 fee to a \$20 fee for a reduction in revenue of \$6,000.

Again using current figures we would be receiving \$59,890 or \$1,917 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 noxious and restricted weed seeds, and to establish a level playing field for developers, wholesalers, retailers and consumers.

We stand for questions.

ALDERSON. ALDERSON, MONTGOMERY & NEWBERY

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MEMORANDUM

TO: SENATE COMMITTEE ON AGRICULTURE

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

RE: HOUSE BILL NO. 2360 (As Amended by House Committee)

DATE: MARCH 20, 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 as originally introduced, a retail business selling only grass seed would have been excluded from the definition of a "seed dealer" and retail business who sell only grass seed, and not any other agricultural seed, either in prepackaged, prelabeled form or by

*Senate agriculture committee
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attachment 6*

selling only grass seed would have been excluded from the definition of a "seed dealer" and retail business who sell only grass seed, and not any other agricultural seed, either in prepackaged, prelabeled form or by breaking bulk prepackaged, prelabeled grass seed into smaller quantities, would have been required to register but would have retained 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 of the difficulty of having seed dealers pay the fees on behalf of their retail business, we requested that the bill be amended by the House Committee to provide that retail businesses who break open bulk prepackaged, prelabeled grass seed for sale in smaller quantities would pay their own \$20 registration fee for that privilege. The amendment does not require any other retailer to 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.

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 law 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 the retailer must pay its own \$20 fee under these circumstances they would be far better off than they are under the existing law. We would urge you to support House Bill No. 2360 for these reasons.



- STAR SEED IN**
101 Industrial Ave.
Osborne, KS 67473
(800) 782-7311
(913) 346-5447
(913) 346-2479 Fax
- STAR SEED INC.**
North Highway 14
Beloit, KS 67420
(800) 782-7611
(913) 738-5775
(913) 738-2688 Fax

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SENATE COMMITTEE ON AGRICULTURE

HOUSE BILL No. 2360

March 18, 1991

Mr. Chairman, members of committee, I am Tom Lutgen. I reside in Osborne, Kansas where I am involved as an owner of family operated wholesale seed business.

I come to you today on behalf of the KANSAS SEED INDUSTRY ASSOCIATION, where I serve as President of that organization. The Kansas Seed Industry Association is an organization that represents over 220 wholesale and retail business throughout Kansas.

Seed is the most important input for Kansas farmers in the production of over \$2.8 billion farm crop products, it represents less than 2% of input costs.

Whether a farmer is admiring his golden field of wheat, or you are enjoying the landscape of your yard, I would like to echo the motto of the American Seed Trade Association, "First the Seed".

In reference to the House Bill No. 2360, it is the position of the Kansas Seed Industry Association, that we are ~~not~~ opposed to passage of HB 2360 as it is currently written.

On behalf of the Kansas Seed Industry Association, I would like to thank you for allowing us this time to express our views.

Senate Agriculture Committee
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attachment 7