

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairman Dan Johnson at 3:30 p.m. on March 13, 2002, in Room 423-S of the Capitol.

All members were present except: Representative Freeborn - excused  
Representative O'Brien - excused

Committee staff present: Raney Gilliland, Legislative Research Department  
Gordon Self, Revisor of Statutes  
Kay Scarlett, Committee Secretary

Conferees appearing before the committee:

Rebecca Reed, Special Assistant to the Secretary, Kansas Department of Agriculture  
Jamie Clover Adams, Secretary, Kansas Department of Agriculture  
Leslie Kaufman, Associate Director, Public Policy Division, Kansas Farm Bureau  
Debra Hooper, President, Kansas Greenhouse Growers Association  
Harry Huff, President, Huff's Gardens, Inc.  
Todd Strain, Head Grower, Stutzman Greenhouse, Inc. (written only)  
Jonathan Starch, Melvern Kansas (written only)

Others attending: See attached list

Minutes of the February 18, 20, and 25 meetings were distributed. Members were asked to notify the committee secretary of any corrections or additions prior to 5:00 p.m., March 14, or the minutes will be considered approved as presented.

**Hearing on SB 435 - Repealing regulation of livestock remedies law**

Chairman Johnson opened the hearing on **SB 435**. Raney Gilliland explained that **SB 435** would repeal the livestock remedies requirement from the Kansas Department of Agriculture's list of statutory authorities. He noted that this bill is identical to **HB 2687** heard in committee on January 28. The Senate made no amendments to the bill.

Rebecca Reed, Special Assistant to the Secretary, Kansas Department of Agriculture, presented testimony in support of **SB 435**. She explained that livestock remedies are basically over-the-counter medications for animals, and that repealing the livestock remedies requirement would not leave consumers without protection because FDA must verify a product is safe as labeled before it can be marketed and distributed. She noted that repealing the livestock remedies requirement would allow their Agricultural Commodities Assurance Program staff to spend more time checking eggs, feed, and seed. (Attachment 1)

As there were no other conferees, the Chairman closed the hearing on **SB 435**.

**Hearing on SB 437 - Regulation of plant pests, plants and plant products and plant dealers and certain agriculture commodities**

Chairman Johnson opened the hearing on **SB 437**. Raney Gilliland explained that **SB 437**, concerning the regulation of plant pests, plants and plant products and plant dealers and certain agriculture commodities, was the twin bill to **HB 2700** heard in committee on February 4 and failed to pass as amended on February 6. Senate amendments to **SB 437** were reviewed:

- Inspection fees will not exceed \$30 per hour. Mileage incurred will be paid by the person requesting the inspection.
- Certificate fees will not exceed \$50.

## CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE on March 13, 2002, in Room 423-S of the Capitol.

- The plant dealer license fee will not exceed \$60, and it will not apply to live plant retailers who offer only Kansas-produced live plants and have annual sales totaling less than \$10,000. Anyone importing live plants from other states will need a license.
- Definition and references to the term “viable” were struck.
- Language added to Section 6 clarified the department’s intent with regard to pest freedom standards. As amended, the department may establish regulations under the pest freedom standards for pests or diseases that could cause economic or environmental harm.

Jamie Clover Adams, Secretary, Kansas Department of Agriculture, discussed the Senate amendments and the need for **SB 437** to ensure the health and protection of the state’s natural and cultivated plant resources from high-risk invasive insects, plant diseases, and weeds. She explained that simplifying the fee structure—from nine types of licenses, certificates, and authorizations down to three – would require less administrative overhead for both the department and the regulated industry. She stated that modernizing the Plant Pest Act would allow the department to focus its limited resources on the highest risks. (Attachment 2)

Leslie Kaufman, Associate Director, Public Policy Division, Kansas Farm Bureau, appeared in qualified support for **SB 437**. She reported that KFB is willing to acknowledge and even accept some reasonable user fees; however, they request that the legislature look for new ways to prioritize the Department of Agriculture’s programs that benefit the general public and increase the department’s share of SGF funding once the state is past this current fiscal crisis. (Attachment 3)

Debra Hooper, President, Kansas Greenhouse Growers Association, testified in strong support for **SB 437**. She reported that the Association had been directly involved with the Department of Agriculture’s Plant Health Division in the preparation of the new law and considers passage of **SB 437** vital to the continued economic health of their industry. (Attachment 4)

Harry Huff, President, Huff’s Gardens, Inc., appeared in support of **SB 437**. As a member of the committee that reviewed and recommended the changes to the Kansas Plant Pest Act, he explained the need to change to a risk-based approach to plant pest regulation; the need to extend coverage to all dealers who handle live plants to assure equality of regulation; and the need for civil penalty authority. He explained that the fees as originally proposed were chosen to allow this act to not need revision for several years. (Attachment 5)

Todd Strain, Head Grower, Stutzman Greenhouse, Inc., Hutchinson, submitted written testimony in support of **SB 437** to strengthen and update the Plant Pest Act, although he opposes the Senate amendments that reduce the inspection and certification fee caps. (Attachment 6)

Jonathan Starch, Melvern, Kansas, submitted written testimony in support of **SB 437**. He believes this legislation would put everyone that generates business from the sale of live plants on a more equal basis when it comes to licensing; also, the bill would allow inspectors to focus more of their time on high-risk problems. (Attachment 7)

Secretary Adams asked for consideration of an amendment to **SB 437**, on page 5, line 30, after “Upon request the secretary may provide inspection services for” insert the language “any person who owns or possesses plants or plant products or for” as this was inadvertently omitted from the original bill.

The Chairman closed the hearing on **SB 437**.

### **Discussion and action on SB 435 - Repealing regulation of livestock remedies law**

Representative Schwartz moved to recommend SB 435 favorable for passage. Seconded by Representative Feuerborn, the motion carried.

The meeting adjourned at 4:10 p.m. The next meeting is scheduled for March 18, 2002.



STATE OF KANSAS

BILL GRAVES, GOVERNOR  
Jamie Clover Adams, Secretary of Agriculture  
109 SW 9th Street  
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(785) 296-3556  
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KANSAS DEPARTMENT OF AGRICULTURE

**MEMORANDUM**

**TO:** House Agriculture Committee

**FROM:** Kansas Department of Agriculture

**DATE:** March 13, 2002

**RE:** SB 435 - Livestock Remedies Repeal

Our request to repeal the livestock remedies requirement is based on several factors:

- Livestock remedies are over-the-counter medications for animals.
- Field inspectors typically check livestock remedy products for product registration, labeling requirements and the expiration date.
- Since October 1999, 279 inspections have been conducted:
  - 218 in co-ops and feed mills;
  - 48 at farm supply stores;
  - Seven at pest shops;
  - Six at vet suppliers.
- Consumers will still be protected by the federal government.
- The Agricultural Commodities Assurance Program (ACAP) also checks eggs, feed and seed. These are fee-funded activities, and enough funding is available to commit more of our seven inspectors' time to checking these commodities.

The Senate made no changes to SB 435, and the bill is identical to HB 2687.

House Agriculture Committee  
March 13, 2002  
Attachment 1

STATE OF KANSAS

BILL GRAVES, GOVERNOR  
Jamie Clover Adams, Secretary of Agriculture  
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KANSAS DEPARTMENT OF AGRICULTURE

House Agriculture Committee

January 28, 2002

Testimony Regarding  
House Bill 2687

Rebecca Reed, Special Assistant  
to the Secretary of Agriculture

Mr. Chairman and members of the committee, I am Rebecca Reed with the Kansas Department of Agriculture. Thank you for the opportunity to present testimony regarding the repeal of the livestock remedies requirement for the Kansas Department of Agriculture.

**Background**

The original livestock remedies law was introduced during the 1910s. In the 1920s it was transferred to the Board of Agriculture and, in the 1940s, more authority was given to enforce the provision. While documentation of the reason for its introduction is sketchy, history shows that questionable remedies were being introduced to consumers at every corner. There was no federal oversight from the Food and Drug Administration, so states were responsible for consumer protection in the livestock remedies industry. The label requirement and oversight by a state agency were most likely intended to deter manufacturers of questionable medicated potions.

Currently manufacturers are required to register their label with KDA and to pay a \$10 fee. The label must contain:

1. The name and address of the person responsible for putting the remedy on the market;
2. The name, brand, or trademark under which the remedy will be sold;
3. The minimum net contents of the container, package, or parcel;
4. English name of each ingredient used.

Livestock remedies are, in general terms, over-the-counter medications for animals. Field inspectors typically check livestock remedy products for product registration, labeling requirements and the expiration date. We have done 279 livestock remedy inspections since October 1999, 218 of which were in co-ops and feed mills, 48 at farm supply stores, seven at pet shops and six at vet suppliers. KDA issued 155 stop sale orders, most of which were for out-of-date product still on the shelves.

## Repeal

Repealing the livestock remedies requirement from KDA's list of statutory authorities will not leave consumers without protection. Before a product can be marketed and distributed, FDA verifies that it is safe as labeled. Consumers are savvy enough to check expiration dates and to read the label to understand product uses.

The Agricultural Commodities Assurance Program (ACAP) regulates livestock remedies, as well as eggs, feed and seed. In fiscal year 2001, the total budget for this seven-employee program was \$361,212. Ninety percent of the budget came from fees, 8 percent came from a grant and 2 percent came from federal funds. The livestock remedies registrations contribute roughly \$16,000 a year to the ACAP budget, which is not enough to make the program economically viable. Repealing the livestock remedies requirement will allow staff to spend more time checking eggs, feed and seed.

I ask for a repeal of the livestock remedies requirement for KDA. Thank you for your time and I will stand for questions.

STATE OF KANSAS

**BILL GRAVES, GOVERNOR**

Jamie Clover Adams, Secretary of Agriculture

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KANSAS DEPARTMENT OF AGRICULTURE

**M E M O R A N D U M**

**TO:** House Agriculture Committee

**FROM:** Jamie Clover Adams

**DATE:** March 13, 2002

**RE:** Chronology of Senate Bill 437

Following is a brief chronology of Senate Bill 437.

**Original Requests by Stakeholder Group**

- Replace the term “nursery stock” with “live plants.” The scope of the law is too narrow because it does not cover annual, herbaceous, perennial, or aquatic plants. Broadening the scope increases the regulated community by 300.
- License all live plant dealers and simplify the inspection fee structure
- Have one fee for all domestic and international inspection certificates.
- Develop pest freedom standards based on risk to focus on the highest priorities, mainly imported plant materials.
- Develop civil penalty authority.
- Change live plant definition, but do not include field or forage crops, cut plants and greenery not used for propagation, seeds, or fruits and vegetables used for food or feed.
- Repeal the Apiary Inspection Act and include bees and beekeeping equipment in the Plant Pest Act to accommodate those who want to export bees or equipment.

**Changes by Senate Agriculture Committee**

- Inspection fees will not exceed \$30 per hour. Mileage incurred will be paid by the person requesting the inspection.
- Certificate fees will not exceed \$50.
- The plant dealer license fee will not exceed \$60, and it will not apply to live plant retailers who offer only Kansas-produced live plants and have sales totaling less than \$10,000. Anyone importing live plants from other states will need a license.

**Senate Floor Amendments**

- Definition and references to the term “viable” were struck.
- Language added to Sec. 6 clarified the department’s intent with regard to pest freedom standards. As amended, the department may establish regulations under the pest freedom standards for pests or diseases that could cause economic or environmental harm.

House Agriculture Committee

March 13, 2002

Attachment 2

STATE OF KANSAS

**BILL GRAVES, GOVERNOR**

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KANSAS DEPARTMENT OF AGRICULTURE

**House Agriculture Committee**

**March 13, 2002**

**Testimony Regarding SB 437**

**Jamie Clover Adams, Secretary of Agriculture**

Mr. Chairman and members of the committee, I am Jamie Clover Adams, Secretary of the Kansas Department of Agriculture. Thank you for the opportunity to appear today to support Senate Bill 437 as amended by the Senate.

**Current Program**

The Plant Protection and Weed Control program ensures the health and protection of the state's natural and cultivated plant resources from high-risk invasive insects, plant diseases and weeds. Most activities occur in three functional areas: safeguarding; export commodity assurance; and pest management, control and eradication. The 11 employees in this program respond to and deal with urban and rural issues that can range from fire ants to Karnal bunt. During fiscal year 2001, the program had a budget of \$919,175, 71 percent of which was from the state general fund, 25 percent from fees and 4 percent from federal funds.

**Stakeholder Group**

SB 437 is the product of a stakeholder review of the Plant Pest Act. The group consisted of representatives from the Kansas Nursery and Landscape Association, the Kansas Greenhouse Growers Association and KDA. We met about six times between December 2000 and January 2002. In addition, a special meeting was held with Kansas Grain and Feed Association representatives.

The original intent of the meetings was to examine current law for needed updating. The last time the act was significantly changed was in 1964. Since the industry has changed, a close examination of the law was necessary to address those changes.

Current law requires that all Kansas nurseries be inspected and all nursery stock dealers be licensed annually. Nursery stock is defined to include only woody ornamental plants (trees, shrubs, roses, etc.). Further, current law requires that all nursery stock sold be free of pests. There are no provisions for risk-based decisions, so there is no method to focus limited resources on the highest risks.



The stakeholder group looked at all areas of the law, and they were in the final stages of making recommendations when the Karnal bunt issue arose last summer. The group met again in early January 2002 to complete their work. Following are conceptual modifications the stakeholder group believes are necessary to modernize and improve the act:

- Replace the term "nursery stock" with "live plants." The scope of current law is too narrow because it does not cover annual, herbaceous, perennial or aquatic plants.
- License all live plant dealers and simplify the inspection fee structure.
- Have one fee for all domestic and international inspection certificates.
- Develop pest freedom standards based on risk to focus on the highest priorities, mainly imported plant materials.
- Develop civil penalty authority.

### **Requested Changes**

SB 437 as amended by the Senate, proposes the changes outlined above. Specifically, live plant is defined to mean any living plant, but it will not include field and forage crops, cut plants and greenery not used for propagation, seeds, and fruits and vegetables used for food or feed. KDA agreed with the stakeholder group and had intended to create an exclusion under the live plant dealer license to exempt persons with annual live plant retail sales of less than \$10,000 who offer only Kansas-produced live plants in regulation. However, the Senate Agriculture Committee put this exemption in the bill. All persons importing live plants from other states would need to obtain a license. We believe broadening the scope of the law to include all live plant dealers will increase the regulated community by 300.

SB 437 as amended by the Senate, sets the cap for the hourly inspection rate at \$30 per hour. This was the consensus of the stakeholder group. This rate reflects KDA's actual costs and it excludes travel time to and from the inspection location. Further, the bill sets the cap for the live plant dealer license at \$60. However, through consensus, we agreed to set the license fee at \$50. The average fee for each nursery in FY 2001 was \$72.

SB 437 authorizes the Secretary to develop pest freedom standards. Such standards are intended to help identify those non-quarantine and restricted pests that should be regulated, since some level of infestation of some endemic, low-risk pests may be acceptable in plants for sale. The purpose of pest freedom standards is to focus limited resources on those pests of greatest concern. The bill also grants the Department of Agriculture civil penalty authority. Currently, the only enforcement mechanism is criminal prosecution, which is difficult since the criminal justice system has higher priorities.

Finally, SB 437 repeals the Kansas Apiary Inspection Act (K.S.A. 2-411 *et seq.*). We propose this repeal because the state's commercial honey and beekeeping industry has declined in recent years. Only one inspection was performed in 2001, and the state apiarist position was cut from the FY 2002 budget during the last legislative session. HB 2700 includes bees and beekeeping equipment within the Plant Pest Act, which gives KDA the authority to accommodate anyone who wants to export bees or beekeeping equipment.

### Comparison to Other States' Fees

A recent survey by the Central Plant Board shows that the fees and hourly charges proposed in SB 437 compare favorably to surrounding states.

Nursery Dealer Licenses	
Nebraska	\$100
Colorado	\$75
Missouri	\$50
Kansas Proposed	\$50
Oklahoma	\$38

Phytosanitary Inspection Fees	
Nebraska	\$15/hr plus mileage. Hourly rate includes drive time.
Colorado	\$32/hr. Includes drive time and per diem if special trip required.
Missouri	\$50/hr for first hour and \$20 for each additional hour.
Kansas Proposed	\$30/hr plus mileage. Hourly rate does not include drive time.
Oklahoma	Currently no charge. Drafting regulations this year.

### Benefits to Kansas Stakeholders and KDA

SB 437 benefits the live plant industry and Kansas agriculture because it allows us to focus on the greatest threats to our cultivated and natural plant resources. The bill reduces administrative overhead by eliminating the need to issue certificates of nursery inspection for every nursery. It also establishes a license expiration date during the industry's off-peak season. Finally, simplifying the fee structure – from nine types of licenses, certificates and authorizations down to three – will require less administrative overhead to manage for both the department and

the regulated industry. Further, the simplified fee structure should create more opportunities for interaction and reciprocity with other states.

SB 437 also strengthens KDA's ability to ensure that Kansas commodities are accepted in the domestic and international marketplace. Currently, staff conduct surveys of pests that are a concern to importing states and foreign countries to help meet the importing entity's plant pest quarantine requirements. This information is combined with final inspection data when the necessary phytosanitary certification is issued for the commodity. Staff have identified 391 Kansas pests that are a concern to Kansas' trading partners. In FY 2001, 77 of these pests were detected during phytosanitary surveys and/or inspections. Also in FY 2001, 38 foreign countries imported 22 Kansas-produced commodities. No shipments certified by KDA were rejected by an importing country.

The increased fees generated by SB 437 will help supplement the general fund support for this important activity. In calendar year 2001, KDA received nearly \$29,000 in fees to certify \$70 million worth of Kansas commodities shipped to foreign countries. I believe the additional investment by the regulated community that is proposed in SB 437 is not excessive in light of the benefit it offers Kansas producers and those who ship Kansas commodities.

Finally, general taxpayer support of this program remains strong even with the addition of the proposed fees. Under this proposal, general funds will contribute approximately 75 percent of the program budget. Further, I understand there is concern that increased fees place a burden on Kansas agriculture. Please understand that approximately 35 percent of the fees will be paid by traditional agriculture, while the remaining 65 percent are paid by the nursery and greenhouse industries.

### **Conclusion**

Modernizing the Plant Pest Act will allow KDA to focus its limited resources on the highest risks. Further, the fees proposed are reasonable when you weigh them against the important role the Plant Protection and Weed Control program has in ensuring that Kansas commodities are accepted in the domestic and international marketplace.

Thank you for the opportunity to appear today to support SB 437. I will stand for questions at the appropriate time.



## ***Kansas Farm Bureau***

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### ***PUBLIC POLICY STATEMENT***

#### **HOUSE AGRICULTURE COMMITTEE**

**RE: SB 437 – Regarding fees and regulations related to the Department of Agriculture’s plant and plant pest program.**

**March 13, 2002  
Topeka, Kansas**

**Presented by:  
Leslie Kaufman, Associate Director  
Public Policy Division**

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Chairman Johnson and members of the House Agriculture Committee, thank you for the opportunity to appear today and comment on SB 437, a part of the Kansas Department of Agriculture’s (KDA) fee proposal package. I am Leslie Kaufman, Associate Director of Public Policy for Kansas Farm Bureau.

We appear today in qualified support for the Secretary’s fee increase package and SB 437 and note our policy positions relate to fee increases in general, rather than by individual program.

Secretary Adams approached our organization prior to the legislative session and outlined for us her ideas for covering budgetary shortfalls by increasing fee revenues to the Department. We appreciate this, because it provided us the opportunity to introduce the concept through our policy development process and receive member input. Our members reaffirmed existing policy and adopted new language regarding the State Department of Agriculture at our 83<sup>rd</sup> Annual Meeting of Kansas Farm Bureau this past November.

***Regulatory functions provided primarily for the protection of the  
general population should receive significant funding from State General***

House Agriculture Committee  
March 13, 2002  
Attachment 3

***Fund monies. Programs that have a more limited scope of benefit may be candidates for a funding mix that includes reasonable user fees...***

We think it important when examining the Department's budgetary situation, to look back over previous year's budgets, as well. In real terms, the State General Fund (SGF) allotment for KDA programs has been steadily declining over the past several years. Secretary Adams saw the need to prepare an alternative, fee package even before the overall state projections hit new lows this fall.

As we understand it, the SGF dollars coming to the Department the past few years have not been sufficient to fully cover the cost of carrying out the obligations the legislature has statutorily given to KDA. We noted earlier in our policy language, that some programs, not affecting the general populace, might be candidates for a fee funding mix. But, we strongly urge the State of Kansas to ensure that programs designed to protect the public health, and Kansans at large, receive greater support from the State General Fund.

We know the state's budgetary situation this year, this coming fiscal year and possibly beyond is going to force a fee increase, a cut in some valuable programs or both. Our farmers and ranchers want a Kansas Department of Agriculture that will be a strong and vigorous voice for production agriculture. As such, they are willing to acknowledge, and even accept, some reasonable user fees. At the same time, we encourage the legislature, and succeeding legislatures, to look for new ways to prioritize KDA programs that benefit the general public and increase the Department's share of SGF funding, once the state is past this current fiscal crisis.

Thank you.

*Kansas Farm Bureau represents grassroots agriculture. Established in 1919, this non-profit advocacy organization supports farm families who earn their living in a changing industry.*



## Kansas Greenhouse Growers Association

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March 13, 2002

House Committee on Agriculture  
House of Representatives  
State of Kansas  
Topeka, Kansas

### **Senate Bill 437**

The Kansas Greenhouse Growers Association (KGGA) strongly supports the passage of Kansas Senate Bill 437, regarding the control of diseases and insect pests on ornamental plants offered for sale in the State of Kansas. The KGGA has been directly involved with the Kansas Department of Agriculture, Plant Health Division, in the preparation of the new law.

This revision of the law is necessary for the continued economic health of the Kansas Greenhouse Industry. The existing law does not now cover greenhouse plants. The greenhouse industry is currently vulnerable to imported greenhouse plants which arrive with diseases or insect pests. These affected plants may find their way to consumers.

Passage of S437 will greatly aid the Kansas Greenhouse Industry and protect consumers. The Kansas Greenhouse Growers Association considers the passage of S437 vital to the continued economic health of our industry. The KGGA urges you to pass S437.

Sincerely,

Debra Hooper  
President  
Kansas Greenhouse Growers Association

Alan Stevens Ph.D.  
Executive Secretary  
Kansas Greenhouse Growers Association

House Agriculture Committee  
March 13, 2002  
Attachment 4

SB 437

Huff's Gardens, Inc.  
617 Juniatta Street  
Burlington, Ks 66839  
March 06, 2002

House Agriculture Committee  
House of Representatives  
State of Kansas

Honorable Representatives:

My name is Harry Huff and I operate a greenhouse in Burlington Kansas. I am a member of the committee that reviewed and recommended the changes to the Kansas Plant Pest Act. I wish to make the following comments for your consideration.

The change from a "NO Pest" to a risk-based approach to plant pest regulation is necessary to alleviate pressure on the inspectors and dealers ability to control pests.

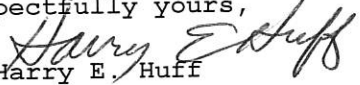
To assure equality of regulation to all dealers of live plants it is necessary to clarify the coverage to all who handle live plants. The replacing of the terms "nursery stock" and "nursery" and "nurseryman" help change coverage of this act to everyone.

The addition of civil penalty was needed to allow easier enforcement of this act. It was indicated that without this penalty, the enforcement occurred only if county attorneys wanted to pursue it.

The fees that were originally proposed had been chosen to allow this act to not need revision for several years. The fee cap changes that have been entered will only allow the Kansas Department of Agriculture to recover majority of costs for a few years. Then with cost of living increases, the fees will again hardly support the Department. I have confidence that a higher cap on the fees will allow the Department of Agriculture to adjust fees as necessary for a longer period without additionally changing the law.

The changes that are being considered will provide the State of Kansas and the Department of Agriculture with the means and methods to regulate and contain pests within the state, fairly and equitably. I support the changes in the "Plant Pest and Agriculture Commodity Certification Act".

Respectfully yours,

  
Harry E. Huff

President, Huff's Gardens, Inc.

House Agriculture Committee  
March 13, 2002  
Attachment 5



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Hutchinson, KS 67501  
800 279-4505  
Fax 620 662-4211  
Email: stutzmans@mindspring.com

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March 11, 2002

Representative Dan Johnson  
Agriculture Committee Members

In order to protect Kansas' greenhouse and nursery industry from imported pest from other countries and states, Kansas needed to strengthen and update its' Plant Pest Act. This law, to be discussed, I believe will help. It will help maintain standards of quality in plant material that Kansas imports and exports to other countries and states.

An industry stakeholder group in conjunction with Kansas Department of Agriculture identified conceptual modifications needed for the law to achieve its' goals (copy included).

The Senate has already passed a bill (SB 437) to do this. There is one point that I disagree with---the reduction of the fee caps. This means that most likely the law's fee caps will have to be revised by legislative process. I believe the Kansas Department of Agriculture can hold its costs as long as possible, then adjust its' fees as needed to meet the needs of the law.

At this point in time, scheduling to attend your meeting will not be possible, but your consideration in this matter is greatly appreciated.

Todd Strain

A handwritten signature in black ink that reads "Todd Strain".

Head Grower

Stutzman Greenhouse, Inc.

Hutchinson, Kansas

House Agriculture Committee

March 13, 2002

Attachment 6



KDA PLANT PROTECTION Fax: 785-862-2182 Mar 6 2002 10:51 P.02

**Kansas Plant Pest Act Revision Concepts**  
Developed by the Kansas Department of Agriculture and an Industry Stakeholder Group  
January 3, 2002

Since December 2000, an industry stakeholder group comprised of members of the Kansas Nursery & Landscape Association and the Kansas Greenhouse Growers Association has been assisting the Kansas Department of Agriculture (KDA) in reviewing the Kansas Plant Pest Act. The group identified the following conceptual modifications to the law.

**1. Adopt a risk-based approach to plant pest regulation.**

The group believes that the adoption of a risk-based plant pest regulatory system is necessary to achieve the desired level of plant pest prevention while maximizing the use of available state resources. To adopt a risk-based system, it will be necessary to broaden the regulated industry base while maintaining the capability to provide appropriate inspection and certification as needed to allow for the orderly marketing of plant materials and to meet pest freedom standards of foreign countries and other states.

**2. Replace the term "nursery stock" with "live plants".**

The group indicated the term "nursery stock" was too limited in scope and was archaic. Today's green industry is broader than "nursery stock". Live plants would include all live plants except aquatic plants sold for indoor use.

**3. License all live plant dealers.**

All live plant dealers will be required to obtain a business license. This license will be a business license and will not serve as a plant certification document. The current requirement that all nurseries in the state be inspected annually will be deleted. The group indicated KDA could better accomplish assigned pest prevention responsibilities by having more time to dedicate to high-risk activities.

KDA staff will work with those live plant dealers wishing to ship their plant materials to another state to ensure their plants meet the pest and inspection requirements of the importing state. A separate certification document will then be issued by KDA to cover the plant materials being shipped. The importing state will determine the type of certification to be issued. KDA will attempt to develop agreements with other states to expedite this process.

A licensing exclusion was developed for persons with annual live plant retail sales of less than \$5,000 who offered only Kansas-produced live plants. All persons importing live plants from other states regardless of sales level would need to obtain a business license.

( O V E R )

#### 4. Adjust Fees. The following fees were developed:

\$50 for a live plant dealer business license. This license would expire annually on January 31.

\$30 per hour plus mileage for live plant inspections.

Inspections would generate fees only if an inspection was made at the request of the live plant dealer. Licensees would not pay fees for compliance inspections initiated by KDA staff. The standards for compliance inspections would be the pest freedom standards described below.

#### 5. Pest Freedom Standards.

The group recognized that the current requirement for all nursery stock to be pest-free is unattainable and unrealistic. The current requirement to inspect all nurseries forces KDA to spend time dealing with low-risk pests and commodities and prevents activities which would focus on high-risk pests and commodities.

The group discussed the role of quarantine pests and regulated non-quarantine pests in defining pest freedom standards through regulations. Processes to identify these pests have been developed and are readily available. By utilizing risk-based analytical methods, it will be possible to define acceptable, non-economic levels of low-risk established plant pests on live plants offered for sale.

The application of these standards would apply to live plants imported from other states as well as those produced in Kansas.

The development of pest freedom standards in regulations would be a duty assigned to the Kansas secretary of agriculture.

#### 6. Civil Penalty.

The addition of civil penalty authority would streamline KDA enforcement efforts. The only enforcement mechanism available under the current plant pest act is the criminal justice system. A matrix of civil penalties would be developed through the rule and regulations process and are subject to the limitations of the Kansas Administrative Procedure Act.

Mr. Jonathan Starch  
31272 South Croco Road  
Melvern, Kansas 66510

House Agriculture committee  
House of Representatives  
State of Kansas

Dear Honorable Representatives:

I am writing this letter in regards to the matter of revisions to the "Plant Pest Act".

I do realize the need for the need for revisions to be made in the law due to the nature of the change that has occurred throughout the industry. I due support the change within the act, which uses the terminology live plant instead of nursery or nurseryman.

The changes that are proposed would put everyone that generates business from the sale of live plants on a more equal basis when it comes to licensing. Also it would further allow for inspectors to focus more of their time on higher risk problems as well as potential problems with a greater impact throughout the state.

Sincerely,



Jonathan Starch

House Agriculture Committee  
March13, 2002  
Attachment 7