

MINUTES OF THE HOUSE AGRICULTURE COMMITTEE

The meeting was called to order by Chairman Dan Johnson at 3:30 p.m. on March 15, 2004, in Room 423-S of the Capitol.

All members were present.

Committee staff present:

Raney Gilliland, Legislative Research Department
Gordon Self, Revisor of Statutes Office
Kay Scarlett, Committee Secretary

Conferees appearing before the committee:

Justin Holstin, Executive Vice President, Propane Marketers Association of Kansas
Karl McNorton, Chief Deputy State Fire Marshal
Jim Brewer, Jim's Propane, Inc., Leon
Dave Lybarger, Lybarger Oil, Inc., Garnett
Doug Wareham, Kansas Grain & Feed Association and Kansas Agribusiness Retailers Association
Leslie Kaufman, Director, Government Relations, Kansas Cooperative Council
Kevin Kelly, General Manager, Two Rivers Coop, Arkansas
Hal Hudson, Executive Director, Kansas Pest Control Association
Chris Wilson, Executive Director, Kansas Agricultural Aviation Association

Others attending:

See attached list.

Minutes of the March 3, 8, and 10 meetings were distributed. Members were asked to notify the committee secretary of any corrections or additions prior to 5:00 p.m., March 17, or the minutes will be considered approved as presented.

Hearing on Sub. SB 335 - Regulation of liquefied petroleum gas

Chairman Johnson opened the hearing on **Sub. SB 335**. Raney Gilliland explained that **Sub. SB 335** would enact the Kansas Propane Safety and Licensing Act and give the State Fire Marshall authority to establish programs relating to the regulation and licensing of the liquefied petroleum gas industry in Kansas. The State Fire Marshall would be required to establish rules and regulations to include, but not be limited to, eight classes of licenses to be renewed annually including fees as set forth in the bill; establish education requirements for each class of license; and establish inspection programs and requirements for all LPG facilities, operations, installations, and businesses.

The bill would require that a plan and application for design, construction, major modification, and installation of a LPG facility with an aggregate water capacity exceeding 2,000 gallons be submitted to the State Fire Marshall for review and approval. In addition, the bill would provide that in any action brought against a LPG marketer for personal injury or property damage, an end retail user's damages would be reduced by the comparative negligence of the customer or any third party to the extent the action of the customer or third party contributed to the cause of the personal injury or property damage. Another provision of the bill would require that every LPG marketer maintain continuous general liability coverage of not less than \$1,000,000. The bill would establish a nine-member Liquefied Petroleum Gas Advisory Board to be appointed by the Governor, create a State Fire Marshal Liquefied Petroleum Gas Fee Fund in the office of the state treasurer, and provide for civil penalties for any person who violates the provisions of the bill or the rules and regulations adopted pursuant to the bill.

He called the committee's attention to Section 5, page 3, lines 30 and 31, creating the "liquefied petroleum gas advisory board" and the conflicting language on page 3, line 39, and page 4, lines 6 and 7, referring to the "fire marshal advisory board." This language should be consistent. In addition, the definition of "business" on page 1 of the bill tells us what a business is not, but does not tell us what a business is specifically. Likewise, the definition of a "liquefied petroleum gas system" may need to be broadened to include a system outside of a building with a line going into a building. He noted that the Kansas Trial Lawyers Association opposed the liability provisions in the original bill; **Sub. SB 335** addressed those concerns.

CONTINUATION SHEET

MINUTES OF THE HOUSE AGRICULTURE COMMITTEE at 3:30 p.m. on March 15, 2004, in Room 423-S of the Capitol.

Justin Holstin, Executive Vice President, Propane Marketers Association of Kansas, appeared in support of **Sub. SB 335** introduced at their request to provide increased safety to customers and members of the industry, create a level regulatory playing field, provide some relief in the court system, and attract insurers to Kansas. He stated that the propane industry in Kansas is facing an insurance crisis, ten years ago there were over ten insurance companies writing propane companies in Kansas, now there are only two or three. He explained that the bill is a culmination of research, analysis, and input from interested parties. It combines the best of several states' laws including Texas, Oklahoma, Colorado, Nebraska, Iowa, and Missouri. The bill addresses what propane and insurance industry representatives believe to be an answer to availability and affordability of insurance coverage for propane marketers in Kansas. He introduced Lyn Klein, Westland Energy of Hays, who experienced insurance premium rate increases of 18% and 28% in the last two years. ([Attachment 1](#))

Karl McNorton, Chief Deputy State Fire Marshal, testified in support of **Sub. SB 335**. He reported that at present no state agency or organization has the ability to identify or locate all of the propane facilities, dealers, distributors, or cylinder exchange locations in the state. He said this bill establishes that single point of contact and provides their office with the opportunity and resources to provide a safer environment for all Kansans. ([Attachment 2](#))

Jim Brewer, Jim's Propane, Inc., Leon, appeared in support of **Sub. SB 335** that would provide funding for the State Fire Marshall, by the propane industry, to provide the industry with inspectors to make sure all marketers are in compliance with the law and, hopefully, more insurable. The propane industry in Kansas is facing an insurance crisis. He reported that several propane companies in the state have been put out of business, or forced to merge with another company, because they were cancelled by their insurance carrier. ([Attachment 3](#))

Dave Lybarger, Lybarger Oil, Inc., Garnett, testified in support of **Sub. SB 335**. He expressed his concern about the rising costs of insurance for his propane business and possible future uninsurability. Currently, there are only two companies writing insurance for propane businesses in Kansas. He believes this bill is the best first step in attracting new insurance carriers to the industry. ([Attachment 4](#))

Doug Wareham on behalf of the Kansas Grain & Feed Association and Kansas Agribusiness Retailers Association appeared in support of **Sub. SB 335**. They believe one reason for the reluctance on the part of insurance companies to offer policies for propane suppliers is the fact that in Kansas there is no license, insurance, or other regulatory requirements in place to ensure the safe handling, storage, and distribution of this product. This bill addresses this concern. ([Attachment 5](#))

Leslie Kaufman, Director, Government Relations, Kansas Cooperative Council, appeared in support of **Sub. SB 335** and efforts to implement a registration and licensing program to help ensure that those delivering propane do so in a conscientious manner. The KCC supports initiatives to limit liability for those meeting the registration and licensing requirements. The Council also encourages protections from liability for dealers if an accident occurs on a system through no fault of their own. ([Attachment 6](#))

She referred to the written testimony submitted by Kevin Kelly, General Manager, Two Rivers Coop, Arkansas, in support of **Sub. SB 335**. He provides information on propane safety regulations in the state of Oklahoma. ([Attachment 7](#))

Tom Palace, Petroleum Marketers and Convenience Store Association of Kansas, offered his support for this legislative initiative to license and regulate the propane industry in Kansas.

There being no other conferees, Chairman Johnson closed the hearing on **Sub. SB 335**.

Hearing on SB 326 - Licensure requirements for pesticide businesses

Chairman Johnson opened the hearing on **SB 326**. Raney Gilliland explained that this bill would increase the amounts of financial responsibility required in statute for a person wishing to be granted a pesticide business license. Under current law, an applicant for a pesticide business license may choose from providing a surety bond, a certificate of liability insurance, a letter of credit from a Kansas financial institution, or

CONTINUATION SHEET

MINUTES OF THE HOUSE AGRICULTURE COMMITTEE at 3:30 p.m. on March 15, 2004, in Room 423-S of the Capitol.

maintaining a minimum balance in an escrow account in a Kansas financial institution. The bill would increase those amounts to: surety bond - \$10,000 per year; certificates of liability insurance - not less than \$250,000 for bodily injury liability for each occurrence and not less than \$250,000 for property damage liability for each occurrence; letter of credit - \$10,000; and minimum balance in an escrow account - \$10,000. The bill would allow an exception to these financial responsibility requirements for those pesticide business licensees who are aerial applicators. In these cases the financial responsibility requirements would remain the same as they are under current law for pesticide business licensees.

He noted that a technical amendment would be necessary on page 1, lines 17 and 18, as there is no subsection (b) in this section of statute. This needs to be either eliminated or clarified.

Hal Hudson, Executive Director, Kansas Pest Control Association, spoke in support of **SB 326** requested by their association as they believe the current requirements on dollar amounts of insurance, bonding, and letters of credit necessary for obtaining a pesticide business license are too low. He reported that Kansas currently ranks 49th in the nation in requirements for insurance coverage. Colorado is number one with a requirement of \$400,000; Nebraska requires no insurance or bonds. (Attachment 8)

Doug Wareham, Senior Vice President, Kansas Agribusiness Retailers Association, appeared in support of **SB 326** that would increase the minimum thresholds of financial responsibility for pesticide business licensees that secure either a surety bond, certificate of liability insurance, or letter of credit. Liability insurance costs are a significant cost component for agribusiness retailers. KARA believes there is reason to be concerned that a growing percentage of custom application work in Kansas is being performed by certified private applicators that do not maintain a pesticide business license and are not subjected to the minimum liability insurance required of licensed pesticide businesses. It is believed many of these certified private applicators performing custom application services are under the false assumption that their farm/ranch insurance policy will cover damage claims that arise from custom application business activities. He provided copies of two insurance policies that show this is not the case. KARA strongly believes that all parties that apply pesticides should maintain adequate liability insurance coverage to cover any spray drift or other claims that might arise from their actions. (Attachment 9)

Chris Wilson, Executive Director, Kansas Agricultural Aviation Association, testified in support of **SB 326** as amended by the Senate. Because of how aviation insurance coverage is provided, this bill as originally written would have had a devastating effect on agricultural aviation in Kansas. She provided a copy of Senate testimony from Randy Hardy, President, Hardy Aviation Insurance, Inc., explaining that the higher limits of chemical liability proposed in **SB 326** are not available, so any state that requires more, has in effect put aerial applicators out of business. (Attachment 10)

There being no other conferees, the Chairman closed the hearing on **SB 326**.

Hearing on SB 524 - Updating references in department of agriculture statutes with respect to departmental duties

Chairman Johnson opened the hearing on **SB 524**. Raney Gilliland explained that **SB 524** would amend numerous sections of law dealing with the Kansas Department of Agriculture and the Secretary of Agriculture to strike references to the previous State Board of Agriculture. In 1995, legislation was enacted as a result of a lawsuit which declared that the manner of selection of the Secretary of Agriculture by the then State Board of Agriculture was unconstitutional. This legislation provided for the establishment of the Kansas Department of Agriculture and the current manner of selection of the Secretary of Agriculture. Since that time, no legislation has been enacted to clean up the statutory references to the previous State Board of Agriculture.

There are no policy changes included in **SB 524**; however, Staff indicated there were several technical corrections that should be addressed by the committee. Staff will review the bill and make recommendations. No one spoke to the bill. The hearing on **SB 524** was closed.

The meeting adjourned at 5:40 p.m. The next meeting is scheduled for March 17, 2004.

HOUSE AGRICULTURE COMMITTEE GUEST LIST

DATE: March 15, 2004

NAME	REPRESENTING
Jared Holte	Rep Johnson
Garett Schmidt	Rep. Powell
BRAD HARRELSON	KFB
DAVE Lybarger	Lybarger Oil, INC
Tom PALACE	PMCA OF KANSAS
Mark Forth	PMAK
Greg Noll	PMAK
Bron Davis	PMAK President
Helen N Davis	PMAK
Lya KLEIN	PMAK
Wanda Kinney	KFA
Twila Drybread	DOB
Carole Jordan	KDA
Allen Shuford	Inter-Kepi Thimich
Ron Seiber	Hewlow Firm
Karl McVorton	KBAMMO
Geslie Kaufman	Ks Co-op Council
Ken RANGES	Ks Dam Assn.
Hal Hudson	KS Pest Control Association

HOUSE AGRICULTURE COMMITTEE GUEST LIST

DATE: March 15, 2004

NAME	REPRESENTING
Jim Brewer	Jim's Propane / PMAK
Judy Shoresalter, Rep.	48 th District
Darg Wareham	KGFA / KARA
Dane Holtmans	KEC



Propane Marketers Association of Kansas

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Topeka, KS 66603-3719

Phone 785-354-1749

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Justin K. Holstin
Executive Vice President

March 15, 2004

Mr. Chairman and Members of the House Agriculture Committee;

Thank you Mr. Chairman, members of the committee, I appreciate the ability to come and talk to you today about a bill that we feel is very necessary for the propane industry in Kansas.

My name is Justin Holstin and I am the Executive Vice President of the Propane Marketers Association of Kansas. The Propane Marketers Association of Kansas represents about 200 members in all aspects of the propane industry including retail, wholesale, transportation, production, and manufacturing of propane and propane related equipment. The propane industry serves more than 98,000 households in Kansas, not including barbeque grills, heaters, agricultural implements and application, and motor vehicles. Each year over 192 million gallons of propane are consumed in Kansas.

At this point, I would like to take a moment to introduce some propane industry members that have come to Topeka to show their support. Seated behind me are _____.

Today we are here to address Sub SB 335. This bill has been worked and reworked but the intent remains; to provide increased safety to customers and members of the industry, create a level regulatory playing field, provide some relief in the court system, and attract insurers to Kansas. This bill is long overdue and has been requested by the propane industry.

Through the process the bill has changed, but not significantly and we have worked closely with the Kansas Trial Lawyers Association in coming to a compromise in our liability language. We disagreed along the way, but what you see before us is agreeable to all parties involved.

The propane industry in Kansas is facing an insurance crisis that continues to grow. At the heart of the problem, as identified by a working group, is the lack of regulations, licensing, and recurring education in Kansas that is found in many other states. Ten years ago there were well over 10 insurance companies writing propane companies in Kansas, now there are only three.

House Agriculture Committee
March 15, 2004
Attachment 1

This bill contains what the propane and insurance industry representatives believe to be an answer for the lack of insurance competition in Kansas, the ever increasing liability exposure for marketers, and a leveling of the field when it comes to regulations. The bill before you is a culmination of research, analysis, and input from interested parties. It combines the best of several state laws including Texas, Oklahoma, Colorado, Nebraska, Iowa, and Missouri.

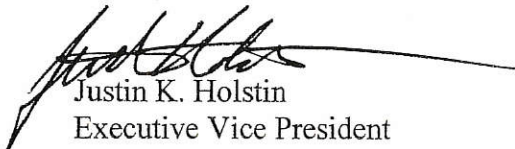
As you will notice the bill includes licensure, recurring educational requirements, insurance requirements, a new standard in the courts, and information and inspection requirements. This bill is not intended to affect individuals, but provide more guidance and oversight to the members of the industry. The bill does include fees, but when compared with a 300% increase in insurance premiums over three years, the benefits greatly outweigh the costs.

This bill will empower the Kansas State Fire Marshal to establish regulatory and inspection programs for the propane industry. At this time, we have very limited inspections, but it is time that the propane industry has a dedicated inspection program rather than sharing an inspector that also works with nursing homes, schools, and other facilities.

I direct you to the handouts that I have given you that will tell you more about the need for this legislation.

I would be glad to answer any questions that you may have at the appropriate time, and ask for your support on Sub SB 335.

Respectfully submitted,


Justin K. Holstin
Executive Vice President

Propane Safety & Licensing Act

Overview

Supporters: Propane Marketers Association of Kansas
Kansas Cooperative Council
Kansas Grain & Feed Association
Kansas Agribusiness Retailers Association
Petroleum Marketers & Convenience Store Association
Kansas Trial Lawyers Association

Opponents: None

What the Bill Does:

- Uniform Licensing—Creates a uniform licensing, inspection, and regulatory system in Kansas that is not overly burdensome and has been requested by the industry.
- Minimum Insurance Requirements—marketers must have at least \$1,000,000 in general liability insurance coverage to operate a business in Kansas.
- Education Requirements—marketers, in order to receive and then maintain their license, will be required to meet education requirements as developed by the state fire marshal.
- Comparative Negligence Standard—this bill clarifies that in lawsuits involving propane, actions of the marketer and the consumer can be entered into evidence for determining “comparative negligence.” A marketer’s compliance with the education, licensing, and inspection requirements can be entered as a defense, as well as evidence of a customer or third party’s inappropriate handling of propane.
- Uniform Information—the fire marshal will provide uniform safety information templates for the industry to apply in their business.
- Propane Advisory Board—Gubernatorily appointed, this board will be made up of industry members, insurance representatives, and public members to evaluate and make recommendations to the Governor and state fire marshal regarding propane regulation.
- Inspection Programs—the fire marshal will be required to inspect marketers and their operations on an annual basis to insure that companies are in compliance with licensing and education requirements. This bill does not include language for inspections of homes or farms, nor does it relate to propane related machinery or vehicles.

Background/Purpose

The propane industry has been working on this initiative for many years. It is important to ensure that all propane marketers in this state meet industry standards for safety. This act, and the regulations which will follow, will provide a basis for that standard. The registration and licensing program will help build confidence in the propane distribution industry in Kansas and hopefully provide additional stability, in terms of availability and affordability of insurance coverage, for propane marketers.

We encourage you to vote “yes” on Sub. SB 335.

Thank you.

Propane Safety & Licensing Act

Insurance Facts

INSURANCE CARRIERS:

- Currently there are 5 or less insurance companies writing propane.
- **Ten years ago there were at least 10-12 carriers.**
- Although there are 5 companies writing now, some will not write companies that have only propane, but must have another business such as oil and gas or fertilizer in order to be insured. **For a “propane only” marketer the choice is 2 or 3 carriers only.**

DRAMATIC INSURANCE PREMIUM RATE INCREASES:

- Lybarger Oil of Garnett—premium increases of over **300% in the last five years.**
- Westland Energy of Hays—**increases in premiums of 18% and 28% in last two years.**
- Ruralgas Co.—Nortonville
 - Saw an **increase of \$4,000** last year.
 - Total cost of premiums are \$24,000 per year, or \$2,000 per month.
 - Insurance cost is roughly **\$.025 per gallon.**
 - Over the last three years they have seen **increases of 18%-22%** per year.
- Reliance Energy Partners—Peabody and Inman
 - Insurance premiums **increased \$31,024** in three years: annually \$61,878.
 - The insurance cost per gallon of propane increased from **\$.0114 to \$.0225.**
 - Increases between 2002 and 2004 were 10%, 20%, and **59%** respectively.
- Mid Continent LP Gas of Great Bend—increases of **32% each of last 2 years...**
- Strohl Oil of Pretty Prairie—increased **68% last year or \$13,550. Roughly 7.2 cents per gallon.**
- Jim’s Propane of Leon—**over a 30% increase** in the last three years.
- Many companies, especially agriculture cooperatives have been told to sell or **“get out” of the propane business if they want to have insurance.**
- The retail price of propane has **1 to 8 cents per gallon of insurance costs built in** and has increased every year.
- The Propane Marketers Association, which represents the industry, does not sell, store, or even use a large amount of propane in training classes had its business insurance canceled recently because of the “propane” in the name of the business. “Farmers Insurance is non-renewing this [policy] due to the involvement with propane and the amount of off-premises exposure.”

FEES & REGULATIONS:

This bill would have most companies paying under \$1,000 per year. If regulations help stabilize insurance premiums and increase competition, they will see a savings. The industry considers that fees and regulations as being not “over-burdensome” and is a small price to pay to increase safety and attract more insurance companies.



K A N S A S

JOSEPH P. ODLE
FIRE MARSHAL

OFFICE OF THE KANSAS STATE FIRE MARSHAL

KATHLEEN SEBELIUS
GOVERNOR

Testimony before the House Agriculture Committee
On Senate Bill 335
By Karl W. McNorton
Chief Deputy State Fire Marshal
March 15, 2004

The Kansas State Fire Marshal stands in support of Senate Bill 335.

The Kansas State Fire Marshal's Office, the Propane Marketers Association, and the propane industry has had a long and strong working relationship. This relationship has made many strides in improving the safety practices performed in the handling of propane, transportation, safety features of the dispensing facilities, installation of exchange cylinder racks, and improving the use of propane in our homes. There is much to do to continue this activity.

At present no state agency or organization has the ability to identify or locate all of the facilities, dealers, distributors, or cylinder exchange locations in the state outlined in the bill. This bill establishes that single point of contact.

There are hazardous incidents involving propane that occur in the state, spills, leaks, fires in the home and transportation accidents, this puts the consumer and/or a handler of propane in jeopardy. This bill provides us with the opportunity and resources to address these issues and provide a safer environment for our citizens.



1-800-794-1013 • 316-745-3378 • Fax 316 745-3202
P.O. Box 276 • Leon, KS 67074-0276
3500 S. E. Hwy 96

Chairman Johnson and committee members,

I am Jim Brewer, I own and operate Jim's Propane, Inc. in Leon, Kansas. We are a retail propane business serving approximately 1100 customers in Butler, Cowley, Greenwood, Elk and Sedgwick counties. We have 5 employees. Jim's Propane has been in operation for 30 years. We are one of the few family owned businesses left in the state. I have been active in the propane business for 25 years. I am a past president of the Propane Marketers of Kansas, and currently serve on the board of directors. I also serve on the KanPERC council.

The bill before you today is very important to the propane industry in Kansas. The Fire Marshal regulates our industry. There has never been a way for the Fire Marshal to know how many, or where propane marketers are located. With this bill, it would provide funding for the Fire Marshal, by the propane industry. With registration and proof of insurance required of all propane marketers we hope to make a much safer industry. This will allow the Fire Marshal to provide the industry with inspectors to make sure all marketers are in compliance with the law.

The propane industry in Kansas is facing an insurance crisis. There are very few insurance companies who will insure in our state, because of our lack of enforcement. There have been several propane companies in Kansas who have been put out of business, or forced to merge with another company, because they were canceled by their insurance carrier.

We believe in safety. My company does an inspection and leakage test on all our customer's gas systems. We are finding many problems because many systems have never been tested. Sometimes the customer has made alterations to their gas system or added appliances. When this happens there may be a chance of a leak. We encourage the customer to notify us when they make an alteration to their system so that we may leak test the system. Hopefully, this will save lives and decrease property loss.

I want to thank you for your time and consideration on this very important bill.

Jim Brewer
Jim's Propane Inc.

House Agriculture Committee
March 15, 2004
Attachment 3

Lybarger

OIL, INC.

704 NORTH MAPLE - P.O. BOX 99
GARNETT, KANSAS 66032-0099

March 15, 2004

Good Afternoon,

My name is Dave Lybarger. I am a retail propane marketer in Kansas. I serve customers in Anderson, Allen, Linn, Miami, Franklin, Coffey and Douglas counties.

My family has a history in the Petroleum Marketing business that dates back to 1955. More recently I entered the propane business in 2001.

I employ 15 full time employees of which 6 are dedicated to propane.

I am very concerned about the rising cost of business insurance but more importantly, the insurance costs specifically related to the propane industry.

I have looked back over the last five years premium history for my company and here is what I have found.

From 1999 to 2000 my premium cost rose 6.5%.

From 2000 to 2001, (the year I started marketing propane) my premiums increased 27%.

From 2001 to 2002: A 49% increase.

From 2002 to 2003: A 21% increase.

In total I have watched my premiums increase 371% over the past five years.

I am also concerned that I may well be one claim away from uninsurable. If I were to sustain a significant claim this year, it is likely that I will be cancelled at my next renewal period. **I'm not certain if the only other carrier that writes insurance for propane companies in Kansas would write me.** You have a number of choices of companies willing to write insurance for your home or car. **I have two choices for my propane business.**

The legislation that you are considering today may well be the best first step in attracting new insurance carriers to my industry.

The bill contains six key elements:

House Agriculture Committee
March 15, 2004
Attachment 4

Registration; My company will be required to register with the Kansas Fire Marshal. I estimate my cost for this could be as much as \$800.00. A price I am willing to pay.

Inspection; My company will be subject to regular inspection by the Fire Marshal insuring that everyone in my industry is living up to the high standards that our customers deserve. This provision is good for the public and industry.

Education; My company will be required to provide continuing education to our employees.

Liability Insurance; I will be required to maintain a minimum insurance coverage. There are members of my industry who have chosen not to carry coverage or who have limits well below actual exposure. I find this a bit frightening.

Clarifies Liability; My negligent actions will be considered as a participatory cause to some damage as opposed to the sole cause. Today, the negligent actions of others have little or no bearing on my financial responsibility in a damage suit.

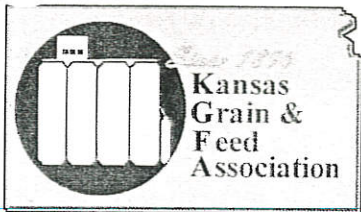
Propane Advisory Board; Members of my industry that know and understand the issues of my industry will play a vital role in policing my company by helping to establish the minimum industry standards that I will be held to. This legislation is not attempting to add a level of government oversight. Our industry is willing to provide a great deal of input.

I urge your support of this legislation as it will make insurance more affordable for my industry and promote a high standard of quality for all Kansas propane customers.

Thank you



Dave Lybarger
President
Lybarger Oil, Inc.
785-448-5512



STATEMENT OF THE
KANSAS GRAIN & FEED ASSOCIATION
AND THE
KANSAS AGRIBUSINESS RETAILERS ASSOCIATION
SUBMITTED TO THE
HOUSE AGRICULTURE COMMITTEE
IN SUPPORT OF SUB. FOR S.B. 355
REP. DAN JOHNSON, CHAIRMAN
MARCH 15, 2004

KGFA & KARA MEMBERS ADVOCATE PUBLIC POLICIES THAT ADVANCE A SOUND ECONOMIC CLIMATE FOR AGRIBUSINESS TO GROW AND PROSPER SO THEY
ROLE IN PROVIDING KANSANS AND THE WORLD THE SAFEST, N

House Agriculture Committee
March 15, 2004

816 SW Tyler, Topeka KS 66612 - 785-234-0461 - Attachment 5

Chairman Johnson and members of the House Agriculture Committee, I am Doug Wareham appearing on behalf of the Kansas Grain and Feed Association (KGFA) and the Kansas Agribusiness Retailers Association (KARA). The KGFA is a voluntary state association with a membership encompassing the entire spectrum of the grain receiving, storage, processing and shipping industry in the state of Kansas. KGFA's membership includes over 950 Kansas business locations and represents 99% of the commercially licensed grain storage in the state. KARA's membership includes 730 agribusiness firms that are primarily retail facilities that supply fertilizers, crop protection chemicals, seed, petroleum products and agronomic expertise to Kansas farmers. KARA's membership base also includes ag-chemical and equipment manufacturing firms, distribution firms and various other businesses associated with the retail crop production industry. Combined, KGFA and KARA have nearly 80 member firms with a direct investment in providing propane to their customers/patrons. I appear before you in support of Substitute for SB 335.

Propane is a significant heat and power source for a number of people, especially in rural areas. As you have heard from other conferees, it is getting harder and harder to find insurance providers that are willing to write propane insurance. Our organizations believe one reason for reluctance on the part of insurance companies to offer policies for propane suppliers is the fact that in Kansas there is no license, insurance or other regulatory requirements in place to ensure the safe handling, storage and distribution of this product. Substitute for S.B. 335 addresses that concern by establishing licensing requirements for propane suppliers and providing the Kansas Fire Marshall's office with the authority to adopt rules and regulations that will ensure the safe handling and distribution of propane, ensure the training of professionals in the propane industry and also advocate the protection of the many end-users that depend upon propane as a heating or fuel source in Kansas.

As you are aware, other products supplied by agribusiness in Kansas, such as fertilizers and agricultural chemicals are heavily regulated by our state to ensure environmental protection and public health and safety. Based on this experience, we believe that meaningful and well-reasoned regulation is good for the propane industry and will be ultimately good for the propane consumer. We hope this bill will provide the vehicle to assist in creating a safer and more knowledgeable propane industry and consumer base. Therefore, both KGFA and KARA requests your support of Substitute for SB 335.



**Leslie Kaufman, Director
Government Relations
Kansas Cooperative Council**

**HOUSE COMMITTEE ON AGRICULTURE
March 15, 2004**

**RE: Sub. SB 335 – Implementing a registration and safety program for
propane dealers.**

Chairman Johnson and members of the House Committee on Agriculture, thank you for the opportunity to appear today in support of the concepts embodied within Sub. SB 335. As you know, Sub. SB 335 would implement a registration and safety program for propane dealers. I am Leslie Kaufman and I serve the Kansas Cooperative Council as Government Relations Director. The Council includes 186 cooperative business members. Together, they have a combined membership of nearly 200,000 Kansans.

Safety is of paramount concern for liquefied petroleum dealers in Kansas. Many of our member cooperatives supply propane. As such, the Council supports efforts to implement a registration and/or licensing program to help ensure that those delivering propane do so in a conscientious manner. The KCC supports initiatives to limit liability for those meeting the registration and licensing requirements. The Council also encourages protections from liability for dealers if an accident occurs on a system through no fault of their own.

Sub. SB 335 embodies the licensing and registration concepts as well as clarification on admissibility of other's actions when determining comparative fault. We are pleased the bill has been slated for hearing and appreciate your consideration. The themes within Sub. SB 335 are ones we can support and the KCC hopes to see this type of legislation pass this session.

We respectfully ask for your favorable action on Sub. SB 335. Thank you!

House Agriculture Committee
March 15, 2004
Attachment 6

March 15, 2004

TO: Chairman Dan Johnson and the
House Committee on Agriculture

FROM: Kevin Kelly, General Manager
Two Rivers Coop
Arkansas City, Kansas Cooperative Council

RE **Sub. SB 335 -- Kansas Propane Safety & Registration Act**

My name is Kevin Kelly, General Manager of Two Rivers Coop located in Arkansas City, Ks. We are a full-service farmers cooperative incorporated in 1950, and have been an LP Gas Dealer since the early to mid 60's. We service 250 LP accounts in four counties in Kansas and Oklahoma.

Because we sell LP in Oklahoma, we are required to have a class 10 managers permit, a class 1 dealer permit, and our drivers are required to carry a 4-D drivers permit to prove they have had proper LP training. In addition to this Oklahoma requires a Form 4 (attached) on every customer we sell LP to. This form requires name, address, phone number, appliance information, general safety info and duty to warn notice with the customer's signature. Pressure testing of the system is also required anytime they run out of LP or an appliance is added or changed. LP regulators are required to be changed every fifteen years.

The system in Oklahoma has some natural checks and balances built in and it is easy for LP dealers to regulate themselves - follow the Oklahoma program and you're in compliance. Although not required, we have adopted the Oklahoma program method for all of our Kansas customers.

Our industry is changing. The product we sell does come with some potential hazards. That is why we have voluntarily adopted safety and training practices above and beyond what is required by Kansas law. But not every company does that. In this industry, one bad actor can put the rest of us at risk, particularly in terms of insurance availability and affordability. The safety and training mechanisms to be developed by the state fire

marshal under this bill could help ensure that all, not just most, of the dealers are making sure safety is priority number one.

We shoulder a heavy burden of responsibility in delivering LP safely and dependably. But that can be threatened if a customer changes, alters, or repairs a system either by themselves or with another service provider and fails to tell us of those changes. The proposal before you now helps ensure the actions of all parties possibly involved in an accident situation are considered when attributing fault. This is extremely important in this day and age when customer actions can result in accidents.

I believe the Kansas Propane & Registration Act (Sub. SB 335) helps ensure that all the LP dealers in Kansas are investing in safety and training and greatly enhances the chances of our cooperative remaining in the LP business. I believe all LP dealers in Kansas want to see our customers safe and are willing to do what it takes to achieve this. But, in the case of an accident, assignment of responsibility needs to have some common sense. As such, we ask for your support of this measure.

Kevin Kelley, General Manager
Two Rivers Co-op
P.O. Box 1087
Arkansas City, KS 67005
620-442-2360

LP GAS SYSTEM SAFETY CHECK

MAIL ORIGINAL TO:
 OKLAHOMA LP GAS ADMINISTRATION
 2101 N. Lincoln Blvd., Suite B-45
 Oklahoma City, Oklahoma 73105

FORM 4
 FORM 4A

DEALER: ADDRESS:	CUSTOMER: _____ ADDRESS: _____ _____ PHONE: _____
<input type="checkbox"/> COMPLETED WALK THROUGH VISUAL CHECK (Check one) <input type="checkbox"/> Building <input type="checkbox"/> Home <input type="checkbox"/> Mobile Home <input type="checkbox"/> Other	Physical Location: _____ _____ _____

TANK:

Size	Manufacturer	Serial Number	Distance from Tank to Bldg.	OK Tag #

REGULATOR:

Type	Manufacturer	Model #	Code Date	Lock-up Pressure

APPLIANCES:

Type of Appliance	Manufacturer	Vented	Pilot Safety System
Capped Openings	#	Locations:	

SYSTEM LEAK CHECK:

PRESSURE CHECK: (If applicable)

Test Pressure: _____ Time Held: _____

Test Pressure: _____ Time Held: _____

DISCLAIMER: This inspection covers LP-Gas (Propane) piping, fittings and equipment visible and accessible to Dealer's Representative and reflects the conditions existing on the date of the inspection. It does not cover latent or manufacturing defects, the internal workings of sealed equipment, structural components, or LP-Gas (Propane) products and cannot be construed to cover future defects or unforeseen happenings.

I, _____ (print name here) hereby acknowledge that as the customer I am responsible for the system past the LP gas container service valve and throughout the building and that a pressure test and/or leak test has been performed and the system was found to be leak free.	_____ (Initial) I know how to turn off gas in case of emergency. _____ (Initial) I have smelled propane and can detect its odor. _____ (Initial) I have received "Duty to Warn" information. _____ (Initial) I certify the number of appliances above is complete.
X CUSTOMER SIGNATURE _____ DATE _____	COMMENTS: _____ _____ _____

I certify that a pressure test and / or leak test has been performed and the system was found to be leak free.

Signed: _____ Permit# _____ Date: _____

Signed: _____ Permit# _____ Date: _____

SAFETY NOTICE

For your safety, propane has an odor added so you can detect leaks. You and each person using or handling propane of your household should know the smell of propane. Ask your propane supplier to demonstrate the odor. If anyone is unable to recognize the odor of propane, call your propane supplier immediately.

Propane is heavier than air; therefore, leaks will tend to settle to floor or ground levels. To check for propane, carefully smell in low spots.

Under some of the following conditions, you may not be able to smell a gas leak. For example:

- Age, colds, allergies, sinus congestion or the use of tobacco, alcohol or drugs may diminish your sense of smell.
- Cooking or other strong odors may cover up the smell of gas.
- In certain circumstances, propane gas may lose its distinctive smell—this is called “ODOR FADE.”
- Sometimes propane gas can lose odor if a leak occurs underground or if there is rust on the inside of the cylinder or piping.
- Some persons are physically unable to detect the smell of gas. If you are one of these people, call your propane supplier immediately.

For these reasons, it is recommended that you purchase and install propane gas detector(s) according to the manufacturer's instructions as a back-up warning device. If anyone using or handling propane is unable to recognize the odor of propane, you should not use it until you have purchased and installed gas detector(s).

WHAT TO DO IF YOU SMELL GAS

1. Put out all smoking materials and other open flames.
2. DO NOT operate a light switch, telephone, cigarette lighter, appliance or thermostat.
3. Get everyone out of the building immediately.
4. Shut off the gas supply at the tank or cylinder.
5. Call your propane supplier. Use another telephone if gas odor is in the building.
6. Have your propane service person locate and repair the leak. Have your service person air out the area and check and re-light your gas appliances. Do not return to the building until you are advised that all leaks have been repaired and it is safe to return.

RELIGHTING YOUR PILOTS

We strongly recommend that for safety reasons, you call a qualified propane service company to relight pilots. **However, if you do relight the pilots yourself:**

- Turn all appliance controls and manual shut-off valves to the “off” position.
- Slowly open the tank shut-off valve.
- Carefully smell for the presence of propane at floor level and in low spots before attempting to relight pilots.
- If gas is detected—STOP—See “What To Do If You Smell Gas.”
- Follow the manufacturer's instructions for pilot lighting. If you cannot find the instructions, do not attempt to light the pilot.

OTHER IMPORTANT SAFETY RULES

- Do not allow unqualified personnel to service your propane system or appliance.
- Do not let your system run out of propane.
- Do not enter an area where you suspect a gas leak. If you are in such an area leave immediately.
- Be alert for propane odor when working in areas where propane is used. Even a faint odor may indicate a hazardous situation.
- Do not try to judge for yourself the level of danger of a gas leak by trying to determine if the smell of gas is weak or strong. All gas leaks pose serious risk.
- Repeated pilot outages could indicate a hazardous condition. Don't attempt to relight the pilot, or service your equipment. Call your propane supplier or another qualified service company.
- If one of your gas appliances has been flooded, shut off the gas immediately at the tank. Do not use your gas system again until the flooded equipment has been checked and serviced.
- Improperly vented or defective appliances can cause potentially fatal carbon monoxide poisoning. Have your propane system and appliances periodically inspected by your propane service company.
- Don't tamper with or use tools to operate controls. If controls are difficult to operate by hand, call your propane service company immediately.
- Keep combustible products, like gasoline, kerosene or cleaners in separate areas from propane appliances. Your appliance pilot light could ignite fumes from these combustibles.
- Don't operate any gas appliance without reading the instructions carefully.

A Safety Reminder from:

Oklahoma L.P. Gas Research, Marketing and Safety Commission
601 N.W. Grand Blvd., Suite C • Oklahoma City, Oklahoma 73118
405/879-9828 • Fax 405/879-0304

Website: www.oklpgas.org • E-mail: lpgascomm@rhess.com

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KANSAS

Serving the Pest Control
Industry of Kansas Since 1948

PEST CONTROL ASSOCIATION

INC



Statement by

Hal Hudson, Executive Director

On behalf of Mark Hassman, Chairman Government Affairs

Kansas Pest Control Association

On Senate Bill 326

Before the House Agriculture Committee

March 15, 2004

Mr. Chairman and members of the committee, my name is Hal Hudson. I am here to speak on behalf of Mark Hassman, the chairman of the Government Affairs committee of the Kansas Pest Control Association.

I am here today to offer comments on SB326. This is a Bill that our Association requested in January, and we are in full support of the Bill, as amended.

The current Statute places requirements on dollar amounts of insurance, bonding and letters of credit necessary for obtaining a Pesticide Business License. It is the Kansas Pest Control Association's opinion that these levels are too low. With the average price of an existing residence close to the \$100,000.00 range and medical expenses on the rise, it seems only prudent that the residents of Kansas should have some assurance that the statutes provide that pesticide applicators demonstrate adequate fiscal responsibility to obtain a business license.

Many companies, in fact most companies, will exceed the higher limits that this Bill asks for. There are even some insurance companies that will not write a policy for less than \$300,000.00 minimum coverage. But there are also some who have less than the \$250,000.00 coverage SB326 asks for. The trusting Kansas consumer would not find this out until the time comes to file an action or claim against a company. Only then will they realize that there are not enough resources to cover claims.

To provide you with a comparison with the surrounding states, Kansas ranks next to the last in requirements for insurance coverage. Colorado is number one with a requirement of \$400,000.00. And, according to the Kansas Department of Agriculture, Kansas currently ranks 49th in the Union. Nebraska requires no insurance or bonds.

We urge you to report S.B 326 favorably.

House Agriculture Committee
March 15, 2004
Attachment 8

KANSAS AGRIBUSINESS RETAILERS ASSOCIATION



KARA is
*"Committed to
Professional
Development
and Business
Viability for
the Retail Crop
Production
Industry"*

Statement of the

Kansas Agribusiness Retailers Association

Presented to the

House Agriculture Committee

In support of

Senate Bill 326

Rep. Dan Johnson, Chairman

March 15, 2004

Presented by:

Doug Wareham
Senior Vice President

Kansas Agribusiness Retailers Association
(785) 234-0463

House Agriculture Committee
March 15, 2004
Attachment 9

Mr. Chairman and Members of the House Agriculture Committee I am Doug Wareham appearing on behalf of the Kansas Agribusiness Retailers Association (KARA). KARA's membership includes nearly 750 agribusiness firms that are primarily retail facilities that supply fertilizers, crop protection chemicals, seed, petroleum products and agronomic expertise to Kansas farmers. KARA's membership base also includes ag-chemical and equipment manufacturing firms, distribution firms and various other businesses associated with the retail crop production industry. I appear before you in support of Senate Bill 326.

In its present form, Senate Bill 326 simply increases the minimum thresholds of financial responsibility for pesticide business licensees that secure either a surety bond, certificate of liability insurance or letter of credit. After some investigation, I discovered that our retail members that maintain a pesticide business license generally carry a minimum of \$1,000,000 in commercial liability insurance. I also discovered price/cost quotes for this type of liability coverage are typically quoted on a basis of "Premium Per 1000 acres Treated". Kansas' leading insurer of agribusiness operations provided the following sample quote for a \$250,000 commercial policy for an agribusiness retailer:

- \$225/thousand acres treated (no deductible)
 - \$.225 cents per acre treated
- \$179/thousand acres treated (\$5,000 deductible)
 - \$.179 cents per acre treated

Liability insurance costs are a significant cost component for agribusiness retailers that often perform custom application services on tens of thousands of acres annually. We are confident that the agribusiness firms we represent are securing adequate liability protection to ensure the financial protection of their customers, their business and any adjacent landowner that might be impacted by their actions. Unfortunately, we also believe there is reason for this committee and the Department of Agriculture to be concerned that a growing percentage of custom application work in Kansas is being performed by certified private applicators that do not maintain a pesticide business license and are not subjected to the minimum liability insurance required of licensed pesticide businesses.

During the past year, the number of complaints our office has received regarding certified private applicators performing custom application services has increased significantly. One can imagine the frustration of retail agribusiness owners and managers that have faced double-digit liability insurance premium increases the past three years, when they have at the same time witnessed a dramatic increase in custom application services being provided by private applicators that are not required to maintain the minimum liability insurance required under existing law. We also believe many certified private applicators that are performing custom application services are under the false assumption that their farm/ranch insurance policy will cover damage claims that arise from custom application business activities.

I recently visited the Kansas Insurance Commissioners Office and through a freedom of information request was able to secure policy information from two different insurance

companies that offer farm/ranch policies. I obtained a complete farm and ranch policy for Farm Bureau Mutual Insurance and I obtained one page from State Farm Insurance's Farm/Ranch Policy. I was informed that Kansas law requires insurance policies in Kansas to be filed with the Insurance Department and updated as the policies are updated. I also contacted Insurance Agents or Insurance Claims Department representatives for both State Farm Insurance and Farm Bureau Mutual Insurance and specifically requested information regarding the applicability of farm and ranch policies when custom application work is performed. I believe the information I gathered should be considered by this committee as you review Senate Bill 326 and consider other possible changes to K.S.A. 2-2448.

I would like to first draw your attention to the State Farm Insurance document (green sheet). State Farm's policy included a specific policy for Chemical Drift Liability and as you can see, the policy will only cover damages caused by chemicals that escape from the "insured location". This bodes the question: If this is the only policy in place for a certified private applicator that is performing custom application work at a farm location that is clearly not covered by the applicators personal farm/ranch policy and a spray drift claim arises, will the damaged party be compensated for those damages?

With respect to the Farm Bureau Mutual Insurance Farm and Ranch Policy (yellow attachment), there is a definition for "custom farming" found on page one of the document, which one might assume would cover the custom application of pesticides. There are also other references in the policy that might lead one to believe this policy would cover a spray drift or other property damage claim caused by a private applicator that was performing custom application work. However, when I contacted a Farm Bureau Mutual Insurance Agent, I was informed that their farm/ranch policy would not cover claims that arise from the custom application of pesticides. I was informed that those types of activities would have to be insured by a commercial "business" policy.

I share this information today in the hopes that this committee will consider the growing number of certified private applicators that are performing custom application work in Kansas and the absence of a financial responsibility (insurance) requirement in the Kansas Pesticide Law for this activity. KARA strongly believes that all parties that apply pesticides should maintain adequate liability insurance coverage to cover any spray drift or other claims that might arise from their actions.

I appreciate the opportunity to appear in support of Senate Bill 326 and I would be happy to stand for questions.

Farm / Ranch Policy

APPROVED
& FILED

APR 21 1998

KATHLEEN SEBELIUS
COMM. of INSURANCE



EFFECTIVE

JUL 01 1998

KATHLEEN SEBELIUS
COMM. of INSURANCE

**SECTION II -
ADDITIONAL
COVERAGES (cont.)**

ment which does not exceed the limit of liability that applies.

2. **First Aid Expenses:** We will pay expenses for first aid to others incurred by an **insured** for **bodily injury** covered under this policy. We will not pay for first aid to you or any other **insured**.

3. **Damage to Property of Others.**

a. We will pay for **property damage** to property of others caused by an **insured**.

b. We will not pay more than the smallest of the following amounts:

(1) replacement cost at the time of loss;

(2) full cost of repair; or

(3) \$500 in any one **occurrence**.

c. We will not pay for **property damage**:

(1) if insurance is otherwise provided in this policy;

(2) caused intentionally by an **insured** who is 13 years of age or older;

(3) to property, other than a rented golf cart, owned by or rented to an **insured**, a tenant of an **insured**, or a resident in your household; or

(4) arising out of:

(a) **business** pursuits;

(b) any act or omission in connection with a premises an **insured** owns, rents or

controls, other than the **insured location**; or

(c) the ownership, maintenance, or use of a **motor vehicle**, aircraft, or watercraft, including airboat, air cushion, personal watercraft, sail board or similar type watercraft.

4. **Chemical Drift Liability.**

a. We will pay those sums that the **insured** becomes legally obligated to pay as the result of **property damage** to crops or animals if:

(1) the damage was caused by the chemicals, liquids or gases that the **insured** uses in normal and usual agricultural operations. These chemicals, liquids or gases must be emitted into the air by discharge, dispersal, release or escape from the **insured location**; and

(2) the chemicals, liquids or gases entered into the air by some means other than discharge, dispersal, release or escape from aircraft.

b. The total limit of our liability in any one year is \$25,000. This aggregate limit is the most we will pay for this coverage regardless of the number of:

(1) **occurrences**;

(2) **insureds**;

(3) claims made or suits brought; or

(4) persons or organizations making claims or bringing suit.

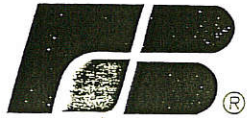
**SECTION II -
EXCLUSIONS**

1. **Coverage L - Farm Liability** and **Coverage M - Medical Payments to Others** do not apply to:

a. **bodily injury** or **property damage**:

(1) which is either expected or intended by the **insured**; or

(2) which is the result of willful and malicious acts of the **insured**;



FARM AND RANCH POLICY

FARM PREMISES AND PERSONAL LIABILITY COVERAGE FORM

We provide the insurance described in this policy for those coverages stated by a specific limit of liability or other notation in the **declarations**, in return for your payment of the premium and your compliance with the policy provisions.

SECTION I-DEFINITIONS

Throughout this policy the words **you** and **your** mean the individual shown in the policy **declarations** as Named Insured or Additional Named Insured and that individual's spouse, if a resident of the same household. **You** and **your** also refers to any partnership, joint venture, corporation, estate or trust shown as Named Insured or Additional Named Insured in the **declarations** page.

We, us and **our**, means The Farm Bureau Mutual Insurance Company, Inc.

Other words and phrases that appear in bold face type have special meaning.

1. **Aircraft** means any device used or designed for flight except model or hobby aircraft not used or designed to carry people or cargo.
2. **Bodily Injury** means bodily harm, sickness or disease occurring during the policy period, including required care, loss of services and resulting death.
3. **Business** means a full or part time trade, profession or occupation, other than **farming** or **custom farming**. **Business** includes but is not limited to:
 - a. rental or holding for rental of any premises, other than an **insured premises**;
 - b. custom livestock feeding;
 - c. sale and application of anhydrous ammonia for others; or
 - d. game preserves or land leased for the hunting season to an individual or group of individuals to be used for their hunting purposes exclusively.

Business does not include:

- a. **farming**, **custom farming** or roadside stands maintained principally for sale of **your farm products**;
- b. rental of an **insured premises** for use as a private residence or **farming purposes**;
- c. rental or holding for rental a part of the **residence premises** for use as a dwelling, unless the rental is to three or more roomers or boarders;
- d. rental or holding for rental a part of the **residence premises** as a private garage, office, school or studio;

- e. garage or yard sales;
- f. activity that minors normally perform such as, newspaper delivery, babysitting, caddying, lawn care, or similar type activities; or
- g. incidental hunting for sport on the **farming premises**.

4. **Custom Farming** means the use of **farm machinery** in the **farming operations** of others for a charge.

5. **Declarations** mean the pages that complete this policy by showing the coverage, limits of protection and the basic information applying to it.

6. **Farm Employee** means an employee of yours who is performing duties within the course and scope of their employment in **your farming operations**. This does not include a **residence employee** or an employee while engaged in an **insured's business**.

7. **Farming** means the production of fruits, vegetables, nuts, trees or field crops. **Farming** also means the raising or keeping of **livestock**, poultry, or fish. It includes wholesale but not retail sales, except incidental retail sales of **your unprocessed farm products**. This also includes responsibilities in connection with the maintenance and upkeep of the **insured premises**.

8. **Farm Machinery** means:

- a. motorized land vehicles, including accessories and any attached equipment or apparatus, usual to operating a farm and designed principally for use off public roads;
- b. wagons or trailers designed and used principally for **farming purposes**; or
- c. any other machinery or implement usual to the operation of a farm.

9. **Farm Products** means fruits, vegetables, nuts, trees, grain, poultry, **livestock**, (excluding fish), and any other raw farm commodity (except honey) produced by **your farming operations**.

Your farm products does not include property rented to or provided for the use of others but not sold.

Your farm products does not include warranties or representations made at any time with respect to the fitness,

DEFINITIONS (cont.)

quality, durability, performance or use of your farm products and the providing or failure to provide warnings or instructions.

10. Impaired Property means tangible property, other than your farm products or your work, that cannot be used or is less useful because:

- a. it incorporates your farm products or your work that is known or thought to be defective, deficient, inadequate or dangerous; or
- b. you have failed to fulfill the terms of a contract or agreement.

if such property can be restored to use by:

- a. the repair, replacement, adjustment or removal of your farm products or your work; or
- b. your fulfilling the terms of the contract or agreement.

11. Insured means you, and:

- a. if you are an individual, **insured** also means the following residents of your household:
 - i. your relatives; and
 - ii. any other person under age 21 who is in your care or the care of a resident relative.
- b. if you are a partnership or joint venture, **insured** also means the partners and members of the partnership or joint venture including their spouses, but only with respect to the conduct of your farming operations;
- c. if you are a corporation, **insured** also means the executive officers and directors of that organization. The executive officers and directors must be acting within the scope of duties connected with the corporation and those duties must be covered by this policy;
- d. if you are an estate, **insured** also means the personal representatives of that estate. The representatives must be acting within the scope of duties connected with the estate and those duties must be covered by this policy.
- e. if you are a trust, **insured** also means the trustee or trustees of that trust. The trustee must be acting within the scope of duties connected with the trust and those duties must be covered by this policy.
- f. any of your farm employees or residence employees (other than executive officers), but only for acts that:
 - i. cause bodily injury to someone other than an insured or a co-employee; and
 - ii. are within the course and scope of the employee's employment by you.

The providing of professional health care services or the failure to provide them will not be considered within the scope of any employee's employment by you.

g. any person or organization legally responsible for animals, farm machinery or watercraft owned by you. It does not include a person or organization using or having custody of the animals, farm machinery or watercraft, in the course of any business, or without your permission.

12. Insured Premises means:

- a. the residence premises;
- b. the farming premises which you own, rent, lease or operate described in the declarations;
- c. part of a premises not owned by you where you may be temporarily residing or which you may occasionally rent for non-business purposes;
- d. any other premises acquired by you during the term of this policy which you intend to use as a residence premises or for farming;
- e. vacant land (other than land used for farming purposes) owned by or rented to an insured;
- f. cemetery plots or burial vaults owned by an insured;
- g. land owned or rented to you on which a one or two family dwelling is being constructed as a residence for your occupancy; or
- h. land leased for temporary grazing not exceeding a 90 day lease.

13. Livestock means cows, calves, bulls, steers, heifers, horses, mules, donkeys, swine, sheep, goats, buffalo, beefalo or cattalo.

14. Medical Expenses means expenses for necessary medical, surgical, x-ray and dental services, prosthetic devices, pharmaceuticals and ambulance, hospital, professional nursing and funeral services.

15. Motor Vehicle means a motorized land vehicle, trailer or semi-trailer (including any attached machinery or apparatus) designed for use or travel on public roads or subject to motor vehicle registration or licensing.

Motor vehicle does not include, except when being towed by or carried on a motor vehicle:

- a. utility trailers, boat trailers or camping trailers;
- b. farm machinery;
- c. any equipment that is principally designed for use off public roads and not subject to registration or licensing.

Motor vehicle does not include:

- a. motor vehicles in dead storage on an insured premises;

DEFINITIONS (cont.)

- b. motorized vehicles not subject to motor vehicle registration used exclusively as a device for assisting the physically impaired.

16. Occurrence means an accident, including continuous or repeated exposure to conditions.

17. Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

18. Products-completed operations hazard includes all bodily injury and property damage occurring away from premises you own or rent and arising out of your product or your work except:

- a. Products that are still in your physical possession; or
- b. Work that has not yet been completed or abandoned.

Your work will be deemed completed at the earliest of the following times:

- a. When all of the work called for in your contract has been completed;
- b. When all of the work to be done at the site has been completed if your contract calls for work at more than one site; or
- c. When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement that is otherwise completed, will be treated as completed.

19. Property Damage means damage to or destruction of tangible property. This includes loss of use of that property.

20. Recreational vehicle means a motorized land vehicle (other than a motor vehicle) designed or used for recreational, vacation or leisure time activities. This does not include:

- a. motorized golf carts while being used for golfing purposes; or
- b. snowmobiles, motorized bicycles or tricycles, 3 or 4-wheelers, or unlicensed motorcycles while any of these are being used for farming purposes.

21. Residence Employee means someone employed by an insured whose duties are in connection with the maintenance or use of the residence premises. This includes persons who perform household or domestic services, or who perform duties elsewhere of a similar nature not in connection with an insured's farming operation or business.

22. Residence Premises means the one or two family dwelling where you reside, including the immediate grounds not used for farming. The residence premises is described in the declarations pages.

23. Your Work means:

- a. Farming or custom farming performed by you or on your behalf;
- b. Materials, parts or equipment furnished in connection with such work or operations.

Your work does not include warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of your farming or custom farming work and the providing of or failure to provide warnings or instructions.

**SECTION II -
COVERAGES AND EXCLUSIONS**

**COVERAGE G -
LIABILITY**

1. INSURING AGREEMENT

We pay all sums for which an insured becomes legally obligated to pay as compensatory damages because of bodily injury or property damage. The bodily injury or property damage must be caused by an occurrence to which this insurance applies.

We will have the right and duty to defend any suit seeking those damages using legal counsel of our choice. At our discretion, we may investigate any occurrence and settle any claim or suit that may result. But,

- a. The amount we will pay for compensatory damages is limited as described in SECTION III - LIMITS OF LIABILITY; and
- b. Our right and duty to defend ends when we have used up the applicable Limits of Liability in the payment of judgments or settlements under Coverage G.

No other obligation or liability to pay sums or perform acts or services is covered unless specifically provided for under the ADDITIONAL COVERAGES.

SECTION II -
COVERAGE AND EXCLUSIONS (cont.)

COVERAGE H -
DAMAGE TO PROPERTY OF OTHERS.

1. INSURING AGREEMENT

We pay for damage to property of others, caused by an insured, or by animals owned by or in the care of any insured. Our limit of liability for this coverage is \$1000 per occurrence.

2. EXCLUSIONS APPLICABLE TO COVERAGE H -
DAMAGE TO PROPERTY OF OTHERS

We do not pay for damage to property:

- a. covered elsewhere in this policy;
- b. owned by, rented or leased to, any insured, a tenant of any insured, a farm employee, residence employee or a resident of your household;
- c. caused intentionally by any insured who has attained the age of 13; or
- d. resulting from:
 - i. business pursuits;
 - ii. premises owned, rented or controlled by an insured, other than the insured premises; or
 - iii. ownership, maintenance, use, entrustment, loading or unloading of motor vehicles, recreational vehicles, aircraft, watercraft, trailers or semi-trailers.

COVERAGE J -
FARM EMPLOYEE COVERAGE

YOU HAVE THIS COVERAGE IF THE DECLARATIONS INDICATE IT IS PROVIDED.

1. EMPLOYER LIABILITY INSURING AGREEMENT

We pay all sums that an insured becomes legally obligated to pay as compensatory damages because of bodily injury to a farm employee. The bodily injury must be caused by an occurrence to which this insurance applies.

We have the right and duty to defend any suit seeking those damages using legal counsel of our choice. We may at our discretion investigate any occurrence and settle any claim or suit that may result. But,

- a. The amount we will pay for compensatory damages is limited as described in SECTION III - LIMITS OF LIABILITY; and
- b. Our right and duty to defend ends when we have used up the applicable Limits of Liability in the payment of judgments or settlements under Coverage J.

No other obligation or liability to pay sums or perform acts or services is covered unless specifically provided for under the ADDITIONAL COVERAGES.

2. EMPLOYEE MEDICAL PAYMENTS INSURING AGREEMENT

We pay the necessary medical expenses of a farm employee who sustains bodily injury arising out of your farming operation. These expenses must be incurred within three years from the occurrence date. We do not cover expenses resulting from any hernia.

We may pay the injured person or the party that provides the medical services.

3. EXCLUSIONS APPLICABLE TO COVERAGE J -
FARM EMPLOYEE COVERAGES

We do not cover:

- a. liability assumed by an insured, under any contract or agreement.
- b. punitive or exemplary damages because of bodily injury to any farm employee.
- c. bodily injury to any farm employee employed in violation of law, with the knowledge or consent of the insured.
- d. bodily injury arising out of the ownership, maintenance, use, loading or unloading, or entrustment to others of:
 - i. aircraft;
 - ii. motor vehicles owned or operated by or rented or loaned to any insured;
 - iii. recreational vehicles owned by any insured, if the bodily injury or property damage occurs away from the insured premises;
 - iv. watercraft:
 - (1) owned by or rented to any insured if it has inboard or inboard-outdrive motor power of more than 50 horsepower;
 - (2) owned by or rented to any insured if it is a sailing vessel, with or without auxiliary power, 26 feet or more in overall length;
 - (3) owned by or rented to any insured if it is powered by one or more outboard motors with more than 25 total horsepower if the outboard motor is owned by any insured;
- e. bodily injury to a person eligible to receive benefits required to be provided or voluntarily provided under workers' compensation, occupational disease or non-occupational disability benefit laws.
- f. any damages arising out of the refusal to employ, termination of employment, coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or other employment-related practices, policies, acts or omissions; or consequential bodily injury as a result of any of the above.

**SECTION II -
COVERAGE AND EXCLUSIONS (cont.)**

- g. **bodily injury** to the spouse, child, parent, brother or sister of a **farm employee** because of **bodily injury** to that employee.
- h. **bodily injury** sustained by an officer, or director of a corporation shown as Named Insured in the **declarations**.
- i. **bodily injury** arising out of **business activities** of any **insured**.
- j. **bodily injury** caused intentionally by or at the direction of any **insured**;

4. CONTINGENT WORKERS COMPENSATION. If you become legally obligated to pay an award of benefits under the Kansas Worker's Compensation Act because of an injury to your farm employee, we will issue our standard Kansas Worker's Compensation Policy in your name. The award must be in connection with an injury sustained by a **farm employee**. The policy will be issued based on our approved rates and premiums.

The Kansas Worker's Compensation Policy takes effect as of the inception date of this policy, or as of the date operations began out of which your legal obligation arises, whichever is more recent. While this coverage is in force, you must agree not to provide or pay compensation according to the provisions of any Worker's Compensation Act.

This coverage applies only if:

- a. you maintain accurate payroll records on all your **farm employees**;
- b. you accept and pay the premium for the Worker's Compensation Policy provided for in this clause. If you refuse to accept the Worker's Compensation Policy or pay the premium, we are relieved of all liability with respect to any claim arising from this coverage;
- c. you do not voluntarily elect to come under the provisions of any worker's compensation law;
- d. your legal obligation to pay benefits does not arise out of:
 - i. premises rented or held for rental to others, except **farming premises**;
 - ii. premises owned by or rented to any **insured** that is not an **insured premises**;
 - iii. your **business** or the **business** of any partnership of which you are a partner;
 - iv. **custom farming** when performed outside a 50 mile radius of the **insured premises**, or the annual gross receipts from **custom farming** exceeds \$1000 unless excess gross receipts have been declared in the **declarations**;

- e. you do not intentionally cause the injury or disease which creates your legal obligation to pay benefits; and
- f. the policy we issue is the only source of coverage for the worker's compensation or occupational disease benefits the person is entitled to receive.

**COVERAGE K -
MEDICAL PAYMENTS**

1. INSURING AGREEMENT

We pay the necessary **medical expenses** that are incurred within three years from the **occurrence date** causing **bodily injury**. The amount we will pay for **medical expenses** is limited as described in **SECTION III - LIMITS OF LIABILITY**.

Each person sustaining **bodily injury** is entitled to this protection when that person is:

- a. on an **insured premises** with the permission of an **insured**; or
- b. elsewhere if the **bodily injury**:
 - i. results from a condition in the **insured premises**;
 - ii. is caused by the activities of any **insured**;
 - iii. is caused by the activities of an **insured's farm employee** or **residence employee** in the course and scope of their employment by an **insured**; or
 - iv. is caused by an animal owned by or in the care of an **insured**.

We may pay the injured person or the party that provides the medical services.

**EXCLUSIONS APPLICABLE TO
COVERAGE G - LIABILITY,
AND COVERAGE K - MEDICAL PAYMENTS**

I. We do not cover bodily injury:

- a. to you or to an **insured**, or resident of the **residence premises**, except a **residence employee**.
- b. to any employee other than a **residence employee**.
- c. to any person eligible to receive benefits required to be provided or voluntarily provided by an **insured** under workers' compensation, occupational disease or non-occupational disability benefit laws.
This exclusion applies whether the **insured** may be held liable as an employer or in any other capacity and to any obligation to share damages because of the injury.
- d. to any person arising out of any refusal to employ, termination of employment, coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or other

SECTION II -

COVERAGE AND EXCLUSIONS (cont.)

- employment-related practices, policies, acts or omissions; or consequential bodily injury as a result of any of the above.
- e. to the spouse, child, parent, brother or sister of any employee because of bodily injury to that employee.
 - f. to any person arising out of or resulting from any insured's transmission of a communicable disease.
 - g. to any person arising out of sexual molestation, corporal punishment or physical or mental abuse.
 - h. to any person while on the insured premises, because a business is conducted or professional services are rendered on the insured premises.
2. We do not cover property damage:
- a. to property owned by or being transported by an insured or any other resident of your household.
 - b. to property rented to or used by or in the care of any insured. We will cover property damage to such property caused by fire, smoke or explosion.
 - c. to your farm products.
 - d. to any part of any property that must be restored, repaired or replaced because your work on the property was incorrectly performed.
 - e. to your work.
 - f. to impaired property or property that has not been physically injured, arising out of:
 - i. a defect, deficiency, inadequacy or dangerous condition in your farm product or your work; or
 - ii. a delay or failure by you or anyone acting on your behalf to perform a contract or agreement according to its terms.
 - g. arising out of the failure of seeds, bulbs, plants, roots, tubers, cuttings or other similar forms of plant source to conform to the variety or quality specified by an insured, or to be suitable for the purpose specified by an insured.
3. We do not cover bodily injury or property damage:
- a. resulting from your non-farming activities when you do not reside on the residence premises.
 - b. caused intentionally by or at the direction of any insured. This exclusion does not apply to bodily injury resulting from the use of reasonable force to protect persons or property.
 - c. resulting from liability assumed under an unwritten contract or agreement; or by any contract or agreement relating to a business of any insured.
 - d. arising out of any premises owned, rented or controlled by an insured which is not an insured premises. This exclusion does not apply to bodily injury to a residence employee arising out of and in the course of the residence employee's employment by any insured.
 - e. arising out of game preserves or land leased to individuals or groups of individuals for their exclusive hunting purposes during the hunting season.
 - f. arising out of or in connection with a business engaged in by any insured. This exclusion applies but is not limited to an act or omission, regardless of its nature or circumstance, involving a service or duty rendered, promised, owed, or implied to be provided because of the nature of the business.
 - g. resulting from custom farming when performed outside a 50 mile radius of the insured premises, or when the annual gross receipts from custom farming exceeds \$1000 unless excess gross receipts are declared in the declarations.
 - h. arising out of the delay or lack of performance by an insured of any contract or agreement to perform custom farming operations.
 - i. caused by the rendering or failing to render professional services.
 - j. caused by or resulting from any substance released or discharged from aircraft.
 - k. caused by the actual or alleged dumping, discharge or escape of pollutants, irritants or contaminants into or upon land, the atmosphere or any water course or body of water, or underground water.
- This exclusion does not apply to bodily injury or property damage caused by or arising out of:
- i. accidental above ground contact with herbicides, pesticides, fungicides and fertilizers caused by the application of the same to an insured premises which results in actual damages to crops (other than an insured's crops), within one growing season of said application;
 - ii. accidental above ground contact with herbicides, pesticides, fungicides and fertilizers caused by applying these chemicals to an insured premises. Any medical treatments must be incurred within one year (365 days) of said application; or
 - iii. smoke resulting from the normal and usual practices of farming or agricultural pursuits at the insured premises.
- l. arising out of goods or products, including containers, which any insured manufactures, processes, sells, handles or distributes, unless the liability arises from farm products produced by an insured on the insured premises.
 - m. resulting from an insured's liability arising out of a warranty of your work or farm products after relinquishing control to others.

**SECTION II -
COVERAGE AND EXCLUSIONS (cont.)**

- n. for damages claimed for any loss, cost or expense by an **insured** or others: for loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal, or disposal of:
 - i. **your products or farm products;**
 - ii. **your work; or**
 - iii. **impaired property;**
if such products, **farm products**, work, or property is withdrawn or recalled from the market or from use by anyone due to its known or suspected defect, deficiency, inadequacy, or dangerous condition.
- o. arising out of the use of any type of motorized vehicle in sponsoring or taking part in any organized or agreed-upon speed, racing, pulling or pushing, demolition or stunting activity or contest, or in preparation for any such activity or contest.
- p. caused while providing rides to persons for a fee using livestock or other animals, with or without accessory vehicles.
- q. arising out of the ownership, maintenance, use, loading or unloading, or entrustment to others of:
 - i. **aircraft;**
 - ii. **motor vehicles owned or operated by or rented or loaned to any insured;**
 - iii. **recreational vehicles owned by any insured, if the bodily injury or property damage occurs away from the insured premises;**
 - iv. **watercraft:**
 - (1) owned by or rented to any **insured** if it has inboard or inboard-outdrive motor power of more than 50 horsepower;
 - (2) owned by or rented to any **insured** if it is a sailing vessel, with or without auxiliary power, 26 feet or more in overall length;
 - (3) owned by or rented to any **insured** if it is powered by one or more outboard motors with more than 25 total horsepower if the outboard motor is owned by any **insured**;

This exclusion does not apply to **bodily injury** to any residence employee.
- r. arising out of any person's use, sale, manufacture, delivery, transfer or possession of Controlled Substances as defined by the Federal Food and Drug Act of 1938, Sections 811 and 812. Controlled Substances include but are not limited to cocaine, LSD, marijuana and all narcotic drugs. This exclusion does not apply to a person's legitimate use of prescription drugs when following the orders of a licensed physician.
- s. arising from nuclear reaction, radiation or radioactive contamination or any consequence of any of these.

- t. arising out of war (declared or undeclared), or due to any act or condition incident to war. War includes civil war, insurrection, rebellion and revolution.

4. We do not cover:
- a. liability for punitive or exemplary damages; or
 - b. statutorily imposed vicarious parental liability for the actions of a child or minor using any **aircraft, motor vehicle, recreational vehicle, or watercraft.**

OPTIONAL COVERAGE

You have this coverage, if shown in the declarations.

1. COVERAGE L - MEDICAL PAYMENTS TO YOU AND YOUR FAMILY.

We pay the necessary **medical expenses** for **bodily injury** caused by an occurrence while engaged in work necessary or incidental to your **farming operation**. These **medical expenses** must be incurred within three years from the date of an accident causing **bodily injury** to a person named in the declarations under Coverage L.

The amount we will pay for **medical expenses** is limited as described in SECTION III - LIMITS OF LIABILITY; and

2. EXCLUSIONS APPLICABLE TO COVERAGE L - MEDICAL PAYMENTS TO YOU AND YOUR FAMILY

We do not cover **medical expenses**:

- a. for any person eligible to receive worker's compensation benefits as a result of the accident;
- b. arising out of domestic or personal activities not related to your **farming operation**;
- c. involving a **motor vehicle** or **watercraft**;
- d. resulting from any hernia; or
- e. arising out of **business activities**.

ADDITIONAL LIABILITY COVERAGES

1. CLAIMS AND DEFENSE EXPENSE COVERAGE

We pay the following expenses incurred in connection with a suit defended by us under Coverage G - Liability and Coverage J - Employer Liability:

- a. costs taxed to the **insured**;
- b. expenses incurred by us;
- c. reasonable expense any **insured** incurs, including but not limited to actual loss of earnings by an **insured**, up to \$100 per day, for time spent away from work at our request;
- d. interest accruing after entry of a judgment but ending when we tender or pay up to the applicable limit of liability;
- e. premiums on appeal bonds or bonds to release

**SECTION II -
COVERAGE AND EXCLUSIONS (cont.)**

attachments up to our limit of liability. We are not required to apply for or furnish any bonds;

- f. premiums up to \$250 per bail bond required of an insured because of an accident, or traffic law violation issued in connection with an accident, arising out of any vehicle to which this policy applies. We are not required to apply for or furnish any bonds;

- g. expenses up to \$250 incurred in defending any claim or proceeding brought by a farm employee, against an insured, under any Worker's Compensation Law if it is finally determined that the Workers' Compensation Law is not applicable.

SECTION III-LIMITS OF INSURANCE

1. LIMIT OF LIABILITY. Regardless of the number of insureds under this policy, persons or organizations sustaining bodily injury or property damage, or claims made, our total liability for each occurrence is subject to the following limitations:

- a. Coverages G-Liability and J-Employer Liability, are limited to the amount shown for "each occurrence" in the declarations. These are our limits for all bodily injury and property damage resulting from one occurrence.

Our liability is limited for bodily injury and property damage resulting from the Products/Completed Operations Hazard. The limit of liability shown in the declarations for Coverage G-Liability, is the total limit of our liability for all such occurrences during the policy period

- b. The Coverage K-Medical Payments limits are shown in the declarations. This "per person" limit is our limit for all medical expenses for bodily injury to one person resulting from one occurrence. The "per occurrence" limit for Coverage K-Medical Payments, is our limit for all medical expenses payable for bodily injury to two or more persons resulting from one occurrence.
- c. The Coverage L - Medical Payments to You and Your Family limit is shown in the declarations. This is our limit for all medical expenses payable for bodily injury resulting from any one occurrence for each person named under this coverage.

2. SEPARATION OF INSURED

This insurance applies separately to each insured. This condition shall not increase our occurrence limit of liability.

SECTION IV-FARM LIABILITY CONDITIONS

The Following Conditions Apply In Addition To The Common Policy Conditions:

LOSS CONDITIONS

1. DUTIES AFTER LOSS, CLAIM OR SUIT. In case of an accident or occurrence, insureds must perform the following duties. You must cooperate with us in seeing that these duties are performed:

- a. You must notify us as soon as practicable of an occurrence that may result in a claim. The notice must include:
 - i. the identity of the policy and insured;
 - ii. the available information on the time, place and circumstances of the accident or occurrence; and
 - iii. the names and addresses of any claimants and available witnesses;
- b. You must forward to us every notice, demand, summons or other process relating to the accident or occurrence;
- c. At our request, you must assist in:
 - i. making settlement;

- ii. enforcing any rights of contribution or indemnity against any persons or organizations liable to any insured;
 - iii. attending hearings, discovery proceedings and trials; and
 - iv. securing and giving evidence and obtaining the attendance of witnesses;
- d. The insured shall not, except at their own cost, voluntarily make payments, assume any obligations or incur any expense. This does not apply to first aid provided to others at the time of the bodily injury.

2. DUTIES OF AN INJURED PERSON

- a. The injured person or, when appropriate, someone acting on behalf of the injured person shall:
 - i. give us written proof of claim, under oath if required, as soon as practicable;
 - ii. execute authorization to allow us to obtain copies of medical reports and records; and

**SECTION IV -
FARM LIABILITY CONDITIONS (cont.)**

- iii. submit to physical examination by a physician selected by us when and as often as we may require.

3. LEGAL ACTION AGAINST US

No legal action shall be brought against us unless there has been compliance with the policy provisions.

No one shall have any right to join us as a party to any legal action against any insured. Further, no legal action with respect to Coverage G-Liability and Coverage J-Employer Liability, shall be brought against us until the obligation of the insured has been determined by final judgement or agreement by us.

4. NO ADMISSION OF LIABILITY WITH MEDICAL PAYMENTS

No payment we make under the provisions of Coverage K-Medical Payments or Coverage J-Employer Medical Coverage constitutes an admission of liability by any insured or us.

5. OTHER INSURANCE. If this insurance applies, it is excess insurance over any other valid and collectible insurance. However, this limitation does not apply to insurance written specifically as excess insurance over the limits of liability that apply in this policy. This clause does not apply to Coverage J, 2. Employee Medical Payments or Coverage L-Medical Payments To You And Your Family.

6. ESTIMATED POLICY PREMIUM

Premium is subject to adjustment based on the rates that are in effect at each renewable date. The premiums shown in the declarations are estimated premiums only. Upon request, you must notify us of any changes in exposures that will affect the estimated premiums in this policy.

The earned premium for the policy will be computed according to our rules, rates and minimum premiums that apply to this insurance. If the earned premium exceeds the estimated advance premiums paid, you will pay the excess to us. If the earned premium is less, we will return the unearned portion to the first Named Insured.

7. TERRITORY

This policy applies to bodily injury or property damage which occurs during the policy period:

- a. anywhere in the world with respect to bodily injury or property damage arising out of personal activities or farming activities in connection with the insured premises, or
- b. anywhere in the world with respect to bodily injury or property damage arising out of your farm products, provided original claims or suits are brought within the United States or its territories.

**SECTION V
OPTIONAL POLICY PROVISIONS**

The following Optional Policy Endorsements are subject to all the terms and provisions of this policy, unless otherwise indicated in the terms of the option.

Each Optional Policy Endorsement applies only as indicated in the declarations.

**FL 047
PROPERTY DAMAGE EXCLUSION ENDORSEMENT**

This endorsement modifies insurance provided under the FARM PREMISES AND PERSONAL LIABILITY COVERAGE FORM.

We do not cover Property Damage to property resulting from the explosion hazard, collapse hazard, or underground hazard defined as follows:

1. Explosion hazard means property damage arising out of blasting or explosion. The explosion hazard does not include property damage resulting from the explosion of air or steam vessels, piping under pressure, prime movers, machinery or power transmitting equipment.

2. Collapse hazard includes "structural property damage" and property damage to any other property at any time. "Structural property damage" means the collapse of or structural injury to any building or structure due to (a) grading of land, excavating, borrowing, filling, back filling, tunneling, pile driving, cofferdam work, or caisson work or (b) moving, shoring, under-pinning, raising or demolition of any building or structure or removal or rebuilding of any structural support.
3. Underground hazard includes "underground property damage" and property damage to any other property at any time. "Underground property dam-

**SECTION V -
OPTIONAL POLICY PROVISIONS (cont.)**

age" means property damage to wires, conduits, pipes, mains, sewers, tanks, tunnels, and similar property, any apparatus in connection therewith, beneath the surface of the ground or water, caused by and occurring during the use of mechanical equipment for the purpose of grading land, paving, excavating, drilling, burrowing, filling, back filling or pile driving.

The explosion hazard, collapse hazard, or underground hazard does not include property damage arising out of operations performed by any insured for independent contractors.

All other provisions of this policy apply.

FL 070

**ADDITIONAL RESIDENCE RENTED TO OTHERS
1 OR 2 FAMILIES**

This endorsement modifies insurance provided under the FARM PREMISES AND PERSONAL LIABILITY FORM.

Coverage G- Liability, and Coverage K- Medical Payments, is extended to the residences described in the

declarations under this endorsement number. The definition of insured premises includes such residences.

All other policy provisions apply.

FL 071

PROFESSIONAL LIABILITY

This endorsement modifies insurance provided under the FARM PREMISES AND PERSONAL LIABILITY COVERAGE FORM.

1. Coverage G - Liability, and Coverage K- Medical Payments, applies to the business pursuit of the insured named in the declarations under this endorsement, who is a:

- a. clerical office employee, salesperson, collector, messenger; or
- b. elementary or secondary school teacher, school principal or school administrator;

while acting within the scope of the above listed occupations.

2. However, no coverage is provided:

- a. for bodily injury or property damage arising out of the business pursuits of the insured in connection with a business owned or financially controlled by the insured or by a partnership of which the insured is a partner or member;
- b. for bodily injury or property damage arising out of the rendering of or failure to render professional services of any nature other than teaching or school administration. This exclusion includes but is not limited to:
 - i. architectural, engineering or industrial design services;
 - ii. medical, surgical, dental or other services or treatment conducive to the health of persons or animals; and

iii. beauty or barber services or treatment;

c. for bodily injury to a fellow employee of the insured injured in the course of employment;

d. when the insured is a member of the faculty or teaching staff of any school:

i. for bodily injury or property damage arising out of the maintenance, use, loading or unloading of:

(1) draft or saddle animals, vehicles for use with them; or

(2) aircraft, motor vehicles, recreational vehicles or watercraft, air boats, air cushions or personal watercraft which use a water jet pump powered by an internal combustion engine as primary source of propulsion;

owned or operated, or hired by or for the insured or employer of the insured or used by the insured or for the purpose of instruction in the use thereof; or

ii. for bodily injury to a pupil arising out of corporal punishment administered by or at the direction of the insured unless indicated in the declarations that liability for corporal punishment is included.

All other provisions of this policy apply.

SECTION V -
OPTIONAL POLICY PROVISIONS (cont.)

FL 074
BUSINESS PURSUITS

This endorsement modifies insurance provided under the **FARM PREMISES AND PERSONAL LIABILITY COVERAGE FORM**.

The following paragraph is added to **Section I, Definitions, Number 3. Business** does not include:

- h. the incidental business pursuit listed in the declarations under this endorsement.

The following paragraph is added to **Section I, Definitions, Number 11. Insured Premises** means:

- i. that portion of the insured premises used for the incidental business pursuit listed in the declarations under this endorsement and includes advertising signs owned by an insured, provided the insured is not in the business of advertising, bill posting or sign erection or repair. However, this does not extend to cover expressions or implications declared or promised in the language of the advertised material.

Definitions, Number 6 of Section I, Definitions, is deleted and the following is substituted:

Farm Employee means an employee of yours who is performing duties within the course and scope of

their employment in your farming operations or the incidental business pursuit listed in the declarations. This does not include a residence employee or an employee while engaged in any other business of any insured.

EXCLUSIONS

The following exclusions apply in relation to the incidental business covered by this endorsement:

We do not cover:

- a. bodily injury or property damage included within the products-completed operations hazard.

The **CONTINGENT WORKERS COMPENSATION** under Coverage J- Farm Employee Coverage, does not apply.

All provisions applicable to the **FARM PREMISES AND PERSONAL LIABILITY COVERAGE FORM**, except where amended by this endorsement, apply to the business pursuit covered by this endorsement.

FL 075
FARM OWNER NON OPERATOR

This endorsement modifies insurance provided under the **FARM PREMISES AND PERSONAL LIABILITY FORM**.

Coverage G-Liability and **Coverage K-Medical Payments** is extended to the persons named in the declarations under this endorsement number. Coverage is only provided for the ownership and maintenance of the insured premises described in the declarations.

This insurance does not apply to:

- a. any employees of the persons named in the declarations, under this endorsement; or
- b. to non farming activities of these persons.

All other provisions of this policy apply.

FL 076
ANIMAL COLLISION

This endorsement modifies insurance provided under the **FARM PREMISES AND PERSONAL LIABILITY FORM**.

We agree to pay for loss by death of livestock owned by an insured caused by collision with a motor vehicle or self propelled farm machinery not owned by or operated by an insured or an insured's employee that occurs on a public road.

We do not cover:

- A. livestock being transported by anyone;

- B. loss that can be reasonably expected or is intended by an insured;
- C. loss caused in connection with any of your business activities or from your furnishing, or failure to furnish, any professional services or advice.

We will pay the smallest of the following amounts:

- A. the market value of the animal; or
- B. the limit of liability stated in the declarations.

**SECTION V -
OPTIONAL POLICY PROVISIONS (cont.)**

**FL 076
Animal Collision (cont.)**

This coverage is void if there is any other collectible insurance covering the same loss.

All other provisions of this policy apply.

**STATEMENT OF THE KANSAS AGRICULTURAL AVIATION ASSOCIATION
TO THE HOUSE AGRICULTURE COMMITTEE
REPRESENTATIVE DAN JOHNSON, CHAIR**

REGARDING S.B. 326

MARCH 15, 2004

Mr. Chairman and Members of the Committee, I am Chris Wilson, Executive Director of Kansas Agricultural Aviation Association (KAAA). KAAA members include approximately 95% of all the Kansas-licensed aerial application pesticide business licensees. Thank you for the opportunity to appear in support of SB 326 as amended by the Senate.

Because of how aviation insurance coverage is provided, this bill as originally written would have a devastating effect on agricultural aviation in Kansas. Due to this concern, the Senate Agriculture Committee adopted the bill before you today. The current bill also was further amended on the Senate floor. I'd like to explain why aerial application is separated out in this bill.

In aviation, the insurance is on the aircraft, not the business. So, our companies that have more than one airplane carry the insurance on each plane. Also, comprehensive chemical coverage is required by the statute, and that is separate from the general liability coverage for aircraft. While all of our planes carry liability coverage above the level sought in this bill, comprehensive chemical coverage is unavailable at that level. Where it is all in one policy for other segments of the application industry, it is separate coverage for aircraft.

In addition to the concerns we had regarding the insurance level increases, we were also concerned about increasing the other financial stability requirements. The Senate Agriculture Committee resolved our concerns in separating out aerial application, and the

floor amendment lowered the proposed change in these areas from \$50,000 to \$10,000 in lieu of the current \$6,000.

The Department of Agriculture reports that 88 pesticide business licensees use the letter of credit; 45 utilize a surety bond; and 7 use an escrow account to meet the requirement in the law, a total of 140.

A number of our members do use these other methods in the law to meet the licensing requirement. These members also carry insurance, but often use another method on their license for a variety of reasons. One reason for this is the timing of the license renewal in relation to the renewal of the operator's insurance. For example, the license renews in December. If your insurance renews, say in January, there will be a statement on your license that it expires on the date of renewal of your insurance. If there was any delay in your certificate of insurance being sent to the Department of Agriculture, your license would lapse. Having a letter of credit on file for your license avoids any potential licensing problem with the certificate of insurance.

Another member uses the letter of credit because that is what is listed on his license instead of his million dollar insurance coverage. He believes it discourages frivolous lawsuits. Still another member reported to me that he uses a bond, and that's what he has had since he started in the business 30 years ago. In 30 years, he has never had a claim or a complaint.

It currently costs our members in the range of \$250 to obtain a \$6,000 letter of credit from their banks. In checking with lenders, we believe that raising the \$6,000 to \$50,000 would make the bonds or letter or credit cost prohibitive or unavailable. I doubt anyone would want to put \$50,000 cash in an escrow account. Basically, I believe that if SB 326 in its original form were to pass, it would stop the usage of these other methods, and these 140 businesses would have to use their liability insurance for their licenses.

Further, in our industry we do not see the need for change. The Department of Agriculture reported to us that in 2003, there were a total of \$180,000 in civil penalties assessed to pesticide business licensees. Of that amount, only \$17,250 was from agriculture, category 1A. Yet the agriculture category accounts for about 1/3 of the licenses. From 1998 through 2002, there have been 24 fines issued to ground and aerial ag operators as a result of complaints, less than 5 per years. Eleven of those were aerial. We estimated that in agriculture, there are upwards of 10 million acres of applications annually. To be conservative, we figured that if only 8 million acres were treated, this would involve 100,000 applications. Out of 100,000 applications, only 24 fines were assessed, the equivalent of .0002 or less of the applications.

Nor are the damage amounts large when there is a claim. Most generally, in our industry \$1000 in a large claim. Most of ours fall below the deductible on the insurance. We just don't have claims that aren't getting paid.

Because of the above reasons we supported modifying SB 326 to the version you have before you today, to which KAAA has no objection.

With me in the Senate hearings was Randy Hardy of Hardy Aviation Insurance, Wichita, KS, Chair of our Insurance Committee, who further explained the problem for the ag aviation insurance industry. Because this is a very specialized market, Randy writes insurance coverage for aerial applicators all over the country, so is very familiar with licensing laws throughout the country. He is also a leader in our national organization, NAAA, and has served as the Insurance Chair for the nation for several years, and just completed a term as our National Treasurer. Randy's company provides the coverage for 75% of the operators in Kansas. A copy of Randy's statement regarding the original bill is attached.

Thank you for the opportunity to comment, and I would be glad to respond to questions.

February 3, 2004

TO: Senate Agriculture Committee

RE: SB 326

The liability insurance requirements proposed in SB 326 are NOT available in the current market. The increased limits proposed, if available at all, would only be available to operators with squeaky clean loss histories, and then at a premium that would be cost prohibitive. To do anything higher than 50-100-50 would make chemical coverage unavailable for many operators. Higher requirements throw up red flags with underwriters, and we're on the edge with USAIG, one of only three companies worldwide that write policies for agricultural aviation. At this point in time, underwriters are cutting and minimizing liability in every way possible, so this is not the time for the state to try to increase liability requirements. The underwriters simply will not provide the proposed coverage.

Higher liability requirements would cause the aerial application industry great harm and would effect the ability to introduce new people to our industry.

The higher limits of chemical liability for states are NOT AVAILABLE, so any state that requires more, has in effect put aerial application out of business.

In other states where we have higher limits like Illinois, this limit doesn't pertain to the chemical portion of the policy. Example, in Illinois, it's \$250K BI per person, \$500K BI aggregate, and \$250K PD – however this is for the Non-Chemical portion of the policy, and the operator can still buy the Chemical portion at lower levels.

There is not one state currently asking for higher limits of chemical liability in this country. In those states asking for greater limits, it's only regarding the non-chemical portion of the policy.

The problem with the Kansas law is that several years ago, there was a re-interpretation of the statute saying it now was inclusive and that our limits need to include the chemical portion.

If Kansas wants to pursue this any further they must, for the benefit of keeping application alive and keeping Kansas business alive, re-write this law separating the non-chemical portion and the chemical portion. I respectfully suggest you don't do anything, and leave well enough alone as it stands. Kansas is currently asking for the maximum limit of insurance given by the remaining three insurance carriers left in this business.

Just a bit more for understanding purposes. Aviation insurance is written differently, than other forms of insurance. In aviation we write the insurance coverage on the aircraft which operates for the operator thus giving the company coverage from the aircraft

policy, which is where the damage would come from. In other forms of coverage, they write a general liability policy on the business of the operator. I would venture that in many cases, Kansas has accepted general liability coverage which does not include damage done by chemical liability claims and only covers claims against the company for general liability around the facility.

We also sell General Liability to the aerial operations, which is commonly referred to as Premises liability and is written in two forms – Comprehensive General Liability (which adds additional items to its policy) and a policy referred to as Owners, Landlords and Tenants, which is a bit less inclusive. Neither of these policies are for chemical damage. They are however for protection to our insureds for public use facilities and people coming on or off their premises.

It is critical to the industry that I serve that this legislation not pass in its current form.

Sincerely,

Randy Hardy, President, Hardy Aviation Insurance, Inc.
Insurance Chair, Kansas Agricultural Aviation Association
2003 National Treasurer and longtime Insurance Chair, National Agricultural Aviation Association