

MINUTES OF THE SENATE AGRICULTURE COMMITTEE

The meeting was called to order by Chairman Derek Schmidt at 8:30 a.m. on February 17, 2004 in Room 423-S of the Capitol.

All members were present except:

Senator Janis Lee- excused
Senator Robert Tyson- excused

Committee staff present:

Raney Gilliland, Legislative Research
Lisa Montgomery, Office of the Revisor of Statutes
Robert Myers, Committee Secretary

Conferees appearing before the committee:

Ted Lomas - Crop Division Manager, Right Cooperative Association, Wright, Kansas
Doyle Pearl - J.B. Pearl Sales & Service, Inc., St. Marys, Kansas
Doug Wareham - Kansas Agribusiness Retailers Association
Brad Harrelson - Kansas Farm Bureau
Mark Wulfkuhle - Member, Douglas County Farm Bureau
John Heise - President, Kansas Soybean Association
Glen Caldwell - Caldwell Farms, Inc., Garnett, Kansas
Bob Timmons - Kansas Corn Growers Association
John Kabus - County Weed Directors Association of Kansas; Director, Shawnee County Noxious Weed
Brett Myers - Kansas Association of Wheat Growers
Greg Foley - Kansas Department of Agriculture

Others attending:

See Attached List.

SB 464: Concerning application equipment of pesticides.

Chairman Schmidt opened the hearing on **SB 464**.

Ted Lomas appeared before the committee as a proponent of **SB 464**. He expressed to the committee his belief that there exists a large anomaly between the state-licensed commercial applicator and the private individuals who commercially apply pesticides and fertilizers with little or no training. As an example, he gave the following information regarding the nineteen providers of liquid application service in the Ness City area: four are licensed operators, three have liability insurance coverage, and only two have any form of pesticide or fertilizer containment. He proceeded to refer to the law in Kansas which states that any amount of bulk pesticide material over three hundred gallons stored for sixty days or used is required to have pesticide containment, thus pointing out the widespread failure to follow such a law in his example of the Ness City area. Furthermore, he stated that this law is ignored by the Kansas Department of Agriculture in most cases. His overall conclusion was that any person who applies liquid fertilizer or pesticides in Kansas for monetary reward, barter, or trade should be licensed, should operate under the regulations imposed by the Kansas Department of Agriculture, and should be subject to regular inspections by the Kansas Department of Agriculture (Attachment 1).

Doyle Pearl appeared before the committee as a proponent of **SB 464**. He stated that the bill would enable the Kansas Department of Agriculture to educate those involved in the application of agricultural chemicals. In addition, he stated that protecting the environment is the motive for laws, but that they will not be followed as long as chemical applicators are not informed of them. He pointed out the fact that farms are increasing in size, resulting in the presence there of the same commercial applicator equipment used by retail operation a few years ago. He continued by stating that, therefore, it makes sense to develop a plan that will educate farm operations of the laws followed by retail custom applicators. He then expressed his belief that a one-time registration of a self-propelled sprayer would create an avenue for such education (Attachment 2).

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MINUTES OF THE SENATE AGRICULTURE COMMITTEE at 8:30 a.m. on February 17, 2004 in Room 423-S of the Capitol.

Doug Wareham appeared before the committee as a proponent of **SB 464**. He first explained to the committee some of the contents of the testimony he had submitted, listing the following: a balloon amendment to the bill, addressing some of the concerns that had been expressed to his department; a sheet containing several photographs of equipment that falls under the Kansas Department of Agriculture's definition of self-propelled application equipment, as proposed in the balloon amendment; a photograph of a fixed facility in North Central Kansas; a photograph of non-fixed bulk product that is delivered to a field for use; and a photograph demonstrating the potential problem of leaks that occur with these facilities. He stated that the bill is proposed in order to address two situations: the increase of farmer-owned application equipment, and thus, the increase of application-for-hire being performed by farmers; secondly, that the type of equipment in question is generally supported by a fixed facility, such as the one shown in the previously-mentioned photograph, or by a bulk product that is delivered to a field for use, as shown in the remaining two photographs mentioned above. He stressed the possibility of environmental contamination in cases of long-term pesticide and fertilizer leaks as being addressed by the proposed bill. Furthermore, he noted the results of an equipment dealer survey performed by the Kansas Agribusiness Retailers Association (KARA), showing that approximately 80-100% of all used application equipment is going directly into farming. He stated that the KARA supports the right of any person who would like to own such application, but that they should have to comply with the law, whether operating as a commercial business or simply storing bulk fertilizers and agricultural chemicals. Mr. Wareham then pointed out that, contained also within his packet of testimony, are comments from 36 different agribusiness retail affiliates. He stressed to the committee the support of the KARA with regard to any effort to educate applicators, and thus achieve compliance. In noting the current budget restraints though, he acknowledged that the resources necessary to achieve such education simply may not exist. He continued by pointing out that contained within his testimony are the Kansas Department of Health and Environment Remediation Statistics from 2003, as well as those of the Kansas Agricultural Remediation Board. In closing, he expressed the desire of the KARA that the committee vote in favor of the bill, and thus support the environment, most importantly water, as well as support providing the Kansas Department of Agriculture with the appropriate means by which to identify and educate applicators (Attachment 3).

Brad Harrelson appeared before the committee as an opponent of **SB 464**. He suggested that the bill has motives other than the protection of the environment and the regulation and education of operators of application equipment. He expressed that the requirements of this legislation would restrict competition by placing additional burdens on those who currently choose alternatives to traditional custom application services. He pointed out that a number of statutory requirements are already in existence that prescribe who may or may not custom apply agricultural chemicals and what steps must be taken to do so, as well as regulations determining how to store larger quantities of agricultural inputs. Thus, he suggested that the concerns of the proponents of the bill are already being addressed. Furthermore, he noted that Kansas Farm Bureau staff and members have taken part in a number of educational forums, thus questioning the need for a new statutory requirement aimed at registering and educating a group of producers. In closing, he stated that the bill is clearly an attempt to tax independent farmers, as well as add extra, unneeded bureaucracy to an industry that is already highly regulated. Contained within his testimony is a list of questions for the consideration of the committee (Attachment 4).

Mark Wulfkuhle appeared before the committee as an opponent of **SB 464**. Being both a farmer and a custom applicator, he questioned how the bill would benefit either of his businesses. He noted the already heavy regulation of both of his businesses and the excessive amounts of paperwork that he has to deal with as a result. He stated that the bill would only increase this red tape, as well as increase the fees already paid. He then pointed out the copy of a spray record sheet that he enclosed with his testimony, explaining that such records must be kept of an application for three years. According to him, this regulation plus that proposed by the bill would be impossible for a department (i.e., the Kansas Department of Agriculture) that lacks the resources necessary to police them. In closing, he stated that his perception is that the goal of this proposed bill is to force small farmers to rely solely on custom applicators (Attachment 5).

John Heise appeared before the committee as an opponent of **SB 464**. He noted that there exists already a roster of more than 17,000 certified private applicators in the state of Kansas, pointing this statistic out as an indicator that Kansas farmers are indeed trained and educated. He further noted that all applicators,

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MINUTES OF THE SENATE AGRICULTURE COMMITTEE at 8:30 a.m. on February 17, 2004 in Room 423-S of the Capitol.

including small farmers, are required to use fertilizers and pesticides in accordance with the product label. He also stated that there is no need for more laws to regulate small businesses and farms ([Attachment 6](#)).

Glenn Caldwell appeared before the committee as an opponent of **SB 464**. He stated that the registration fee and paperwork proposed by the bill would indeed be a nuisance, but that his opposition was not based on this. Rather, he pointed out his failure to see how Kansas farmers, the environment, or the Kansas Agribusiness Retailers Association (KARA) would benefit from the bill. He expressed his belief that the bill is intended solely to be a means by which the KARA could control what they perceive as farmer competition. His stated belief was that there are already rules in place regulating private applicators, and that efforts should be concentrated on making the best of these existing laws ([Attachment 7](#)).

Bob Timmons appeared before the committee as an opponent of **SB 464**. He started out by stating that the fight surrounding this bill (i.e., between the Kansas Agribusiness Retailers Association [KARA] and the crop producers) was not sought out by producers. Rather, according to him, they were forced into it. He stated that the push by the KARA for this legislation is an attempt to regulate the competition that they perceive as coming from farmers. He expressed his speculation that virtually all people to be affected by the bill are already registered as certified private applicators. Furthermore, he stated his unawareness of any other states having a registration requirement such as the one proposed by the bill. He proposed that the focus should be on encouraging compliance with the laws already in place, instead of creating new bureaucracies and regulations ([Attachment 8](#)).

John Kabus appeared before the committee as an opponent of **SB 464**. He expressed to the committee his belief that the bill indicates an existing dispute between private applicators and commercial applicators. He questioned the need to regulate a pickup truck containing a 200 gallon spray tank in the same manner as large spray equipment would be regulated. He requested of the committee that, if the bill were to be passed, government agencies be exempted from the proposed regulation, due to the fact that the Kansas Department of Agriculture already requires that they pay a fee and apply annually for registration ([Attachment 9](#)).

Brett Myers appeared before the committee as an opponent of **SB 464**. He stated that legislation indeed already exists concerning the issue of pest control and fertilizer application. He pointed out that the Secretary of Agriculture already has the authority to require the registration of and to mark for identification any commercial application equipment. He noted that Kansas Commodity Groups were declined upon volunteering to work together with the proponents of the bill in order to educate farmers on the regulations imposed on applicators. Furthermore, he stated that the bill would create bureaucracy instead of benefit ([Attachment 10](#)).

Greg Foley appeared before the committee in response to a question posed by Chairman Schmidt regarding the point stressed by the opponents of the bill that the majority of those who would be affected are already registered as certified private applicators. He responded that the 17,000 certified private applicators referenced in the opponent's testimony is the known universe of such applicators, but that there are most likely individuals performing application work without a license. He further reported to the committee that in the year 2003 the Kansas Department of Agriculture received 166 complaints regarding pesticide and fertilizer application.

Greg also responded to a question posed by Senator Umbarger regarding whether or not a commercial license is required in cases of bartering. His response was that licensing is required only in cases in which money is exchanged.

Leslie Kaufman of the Kansas Cooperative Council submitted written testimony to the committee as a proponent of **SB 464** ([Attachment 11](#)).

Chris Wilson, Executive Director of the Kansas Agricultural Aviation Association, submitted written testimony to the committee as a proponent of **SB 464** ([Attachment 12](#)).

Frank Shelton of Farmway Co-op Inc. in Beloit, Kansas submitted written testimony to the committee as a

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proponent of **SB 464** (Attachment 13).

Kenlon Johannes, Chief Executive Officer of the Kansas Soybean Association, submitted written testimony to the committee as an opponent of **SB 464** (Attachment 14).

Greg Shelor, President of the Kansas Grain Sorghum Producers Association, submitted written testimony to the committee as an opponent of **SB 464** (Attachment 15).

Steve Baccus, President of Kansas Farm Bureau, submitted written testimony to the committee as an opponent of **SB 464** (Attachment 16).

Ken Rahjes, Assistant Director of Member Services of Kansas Seed Industry Association, submitted written testimony to the committee as an opponent of **SB 464** (Attachment 17).

Greg Foley of the Kansas Department of Agriculture submitted written testimony containing information to assist with the deliberations on **SB 464** (Attachment 18).

The next meeting is scheduled for Wednesday, February 18, 2004.

SENATE AGRICULTURE COMMITTEE GUEST LIST

DATE: 2-17-04

NAME	REPRESENTING
Jeare White	KCGA-KESR
Bob Timmons	KCGA
J.D. Hanna	Kansas Farm Bureau
Gary Meyer	Ks Dept of Ag
Darrel Pettay	TAL/REGA
Lee Mason	KARA
Aaron Harries	KS Agribusiness Retailers Assn.
Carole Jordan	KDA
Mark Wulfwile	Self / Farm Bureau
Steven Parobsky	Self / Farm Bureau
Bob Haselwood	self
Francis Kelsey	self
Kenlon Johannes	Kansas Soybean Association
John Heise	Kansas Soybean Assn. / Farmer
THOMAS F. REDMAN	RIGHT LOOP ASSN.
GREG A. FOLEY	KANSAS DEPT. OF AGRIC.
BRAD HARRELSON	KFB
Judd Johnson	KLA
Leo Myer	KAVG

Arnold
Laird
Ness City
Wright



Kalvesta
Mullinville
Spearville
Wilroads

"Exceeding Our Customers' Expectations"

Support For Senate Bill 464

February 2004

My name is Ted Lomas. I am the crop division manager for the Right Cooperative Association in Wright, Kansas. I have been directly involved with the fertilizer and pesticide industry in numerous capacities for 25 years. The Right Coop is based out of Wright, Kansas and operates nine grain elevator locations in southwest Kansas. Our association serves 3400 patrons with 1600 of those being active accounts.

My direct responsibility with the Right Coop is managing three crop production departments within the association. Our ag crop departments provide a full line of packaged and bulk pesticides along with bulk dry and liquid fertilizers.

We provide a complete service with the products, which includes agronomy services and application equipment operated by trained experienced licensed personnel.

I am here today as a very concerned representative of the Right Coop Assn. I believe a large anomaly exists between the State Licensed Commercial Applicator and the Private Individuals who commercially apply fertilizer and pesticides with little or in most cases, no training, and very few are licensed through the K.D.A.

I will give you one example from our Ness City location. There are at present nineteen applicators in the Ness City area that provide liquid application service. Of that nineteen, four are licensed operators, three of those nineteen have liability insurance coverage, and only two of the nineteen that are available for hire, have any form of pesticide or fertilizer containment. All of the applicators offering their services charge an application fee varying from \$2.00 to \$4.00 per acre. Six of the nineteen available for hire charge a per acre charge or barter for their service.

FERTILIZER AND PESTICIDE CONTAINMENT. As I mentioned earlier, two applicators in the Ness City area have Dept. of Ag qualifying pesticide or fertilizer containment. This means that any one of those commercial

*Senate Agriculture
February 17, 2004
Attachment 1*

applicators using more than 2,000 gallons of liquid fertilizer and stores it at the same location for over 60 days is in violation of the law in Kansas.

BULK PESTICIDES. The law in Kansas is also very clear and in most cases ignored by the Dept. of Ag. It states that any amount over 300 gallons of bulk pesticide material of the same product stored for 60 days or used will require pesticide containment.

Off target applications (drift) have continually increased in the past two-three years, as have complaints from adjacent landowners who suffered because of off target applications with damage to crops and shelterbelts. Complaints have also increased from homeowners living in the country from herbicide damage to tree shrubs and planted gardens. The vast majority of complaints are directed to the licensed insured applicator that is continually singled out because of their insured status.

I am sure you are all aware of the increase in no-till or some form of reduced tillage in farming today and how chemicals are replacing tillage. This reduced till system has increased the ownership of self propelled fertilizer and pesticide application equipment and will continue to rise in the future. In the past two years in western Kansas, we have seen another change with the crops that we raise, cotton. Cotton has increased its acreage in SW Kansas and with this extremely sensitive crop; we will also see a further increase in damage to crops from irresponsible, unlicensed, unregulated commercial applicators.

In conclusion, I would recommend that any person who applies pesticides or liquid fertilizer in the State of Kansas for monetary reward, barter, or trade should be licensed to apply both fertilizer and pesticides and operate under the same regulations the K.D.A. imposes on licensed operators in the State of Kansas and would be subjected to regular Dept. of Ag inspections to ensure compliance with the laws and regulations.

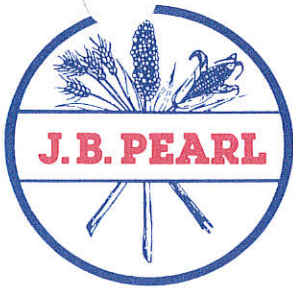
Who would benefit from these changes?

First, the adjacent landowner or homeowner where application of fertilizers or pesticides are being applied. By having licensed applicators, they, the applicator, would be required to keep documentation as set down by the K.D.A. This would include legal descriptions of the field, temperature, wind speed, direction, and fertilizer and pesticide rates being applied to the field.

Second, not only would this give the customer (producer) a record of application to his or her field, it would direct any problems of mis-application, off target applications or off label rates to the person or persons responsible for the actual application.

Third, I firmly believe that by having licensed operators applying fertilizer and pesticides, licensing would require them to attend continuing education programs to keep their K.D.A. license current. This, in time, would create a higher standard of applicators applying fertilizer and pesticides in the State of Kansas.

Thank you for this opportunity in giving me time here today to testify.



J.B. PEARL SALES & SERVICE, INC.

27425 W. Hwy. 24 • P.O. Box 128 • St. Marys, Kansas 66536 • 785-437-2772

Chairman Schmitt and members of the committee, thank you for this opportunity to testify in support of Senate Bill 464.

This bill will allow KDA to educate everyone engaged in the application of agriculture chemicals. Education=Knowledge=Stewardship=Protection of the Environment. Protecting the environment is why laws have been written. Laws can't be followed if everyone who applies chemicals is not informed of the laws.

Agriculture is evolving and changing. The size of farms has increased and so has the size of equipment. The same commercial equipment used by a retail operation, five to seven years ago can be found on farms today. The trend is that these numbers will continue to increase. Therefore, wouldn't it make sense to develop a plan, now, that will educate farm operations of the laws retail custom applicators are required to follow?

A one-time registration of a self-propelled sprayer would create an information avenue for education. Our retail operation would be required to register eight sprayers. KARA has members in support of this bill with four to five times the number of sprayers we have. A minimal cost would be required to register each self-propelled spray machine. Registration costs will be greater for an ag-retailer than for a farm operation due to the numbers of machines ag-retailers have at their

facility. KARA members support this bill because it is the right thing to do.

You may hear from opponents of this bill, that the Retailers motive to pass this bill is to eliminate competition. The issue is, when self-propelled spray equipment is being used in applying chemicals for hire; let's make sure everyone is following the laws, regardless of who owns the equipment. Let's all be stewards of the environment.

Opponents of this bill may say farm operations should be exempt. Shouldn't the law apply to everyone engaged in the same activity? Why should one be held accountable by KDA and another be exempt?

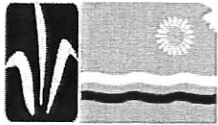
My father started our retail ag-business 43 years ago by custom applying chemicals and fertilizer to supplement a farming operation. I know and understand the importance of being able to have a business that works along side farming. The enactment of SB464 into law will not stop free enterprise. If people know the laws, most will follow them.

Thank you for the opportunity to share my concerns and comments.

Sincerely,

Doyle E. Pearl
J.B. Pearl Sales & Service, Inc.
27425 West Highway 24
St. Marys, KS 66536

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

Senate Agriculture Committee

In support of

Senate Bill 464

Senator Derek Schmidt, Chairman

February 17, 2004

Presented by

Doug Wareham
Senior Vice President

Kansas Agribusiness Retailers Association
(785) 234-0463

*Senate Agriculture
February 17, 2004
Attachment 3*

Mr. Chairman and Members of the Senate 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 464.

Senate Bill 464 is an attempt to address two very real situations occurring in rural settings across Kansas:

- The first situation is the significant and growing number of farmers that own commercial scale pesticide application equipment (self-propelled – 200 gallons or greater) and use that equipment to “illegally” provide custom application services for compensation for adjacent or nearby landowners.
- The second situation is the steadily increasing number of on-farm bulk liquid fertilizer and liquid ag-chemical storage facilities that are in violation of Kansas Fertilizer and Pesticide Laws and Regulations because they are being used for long-term bulk storage (greater than 60 days) and are not equipped with the required containment structures to ensure protection of the environment.

Our organization has been concerned about lack of understanding at the producer level of Kansas laws pertaining to the safe storage, handling and application of liquid bulk fertilizers and liquid ag-chemicals for quite some time. That concern has become more serious with the proliferation of commercial-scale liquid fertilizer and pesticide application equipment ownership by non-licensed pesticide businesses.

While no one can tell us just how many large application rigs exist in Kansas, because neither the Kansas Department of Agriculture, nor any other agency has such a database of information, what we do know is the following:

Our organization has surveyed six different distributors of self-propelled liquid fertilizer and ag-chemical application equipment and found that 5 of the 6 indicated that between 80% to 100% of the used, commercial scale (self-propelled – 200 gallons or greater) applicators were sold to farmer customers rather than commercial businesses. One respondent indicated that every used commercial rig they sold in 2003 went to the farm.

We followed up our initial question with one asking how this trend has increased over the past 5 years. To no one's surprise, we learned the following:

One respondent indicated that sales to farmers of used, commercial-scale equipment had tripled in the past three years. A second respondent indicated that their sales of used commercial-scale equipment had increased from only 10% five years ago, to nearly 50% three years ago, to over 80% today. None indicated that sales of used, commercial-scale equipment to farmers had declined.

In fact, we also learned from several of the respondents that a significant and growing percentage of "new" equipment purchases are being made by non-licensed parties, typically farmers. One respondent indicated that roughly 40% of their new equipment sales were directly to farmers, and all but one indicated they are selling new equipment directly to the farm.

Before anyone accuses us of trying to restrict ownership of large liquid fertilizer and ag-chemical equipment, let me state for the record that KARA fully supports the rights of all parties in Kansas to own and operate the equipment we are attempting to identify in Senate Bill 464. Our purpose for sharing this information regarding ownership trends is simply to paint a picture of who the players are today with respect to the transportation, storage, handling and application activities that we believe everyone would agree are associated with the ownership of this type of equipment.

Attached to my testimony today are comments that have been submitted by 36 different agribusiness retail firms from across Kansas that represent 179 business locations in 68 different counties. Each of the comments provided sheds more light on the scope of this problem and the growing level of frustration by licensed businesses that have taken the appropriate steps to meet or exceed Kansas laws or regulations that govern pesticide business activity and govern the safe storage and handling of bulk fertilizers and ag-chemicals for all Kansans, not just those that choose to be regulated.

I want this committee to know that our organization did not suddenly awake one morning in early January and decide to introduce this legislation. This registration concept grew out of on-going discussions within our organization this past year and we first broached this idea with representatives of the Kansas Department of Agriculture at a meeting we participated in on October 20th of last year. It was at that meeting that we learned that the concept of registering application equipment is a proven concept. In 1976, KDA under its authority granted in K.S.A. 2-2456, the very statute we are proposing to amend, instituted an application equipment registration program. We have subsequently learned that this registration program was initiated to identify, educate and achieve compliance with respect to the licensure of pesticide businesses, which also took effect in 1976. We also know that this requirement, which was at the discretion of the Secretary, was terminated sometime in the mid-1980's because it had accomplished its objective of identifying, educating and bringing into compliance all parties that needed to secure a Pesticide Business License.

While the Department's initial reaction to utilizing this proven concept to identify this new realm of application and storage activity seemed positive, and in fact one of the comments we received was that "this would help us (KDA) identify those operators that we otherwise have a very difficult time identifying". KDA's support has apparently waned, based upon their neutral position today. We understand the agency and this committee are under significant pressure from the opponents of this bill that are clearly satisfied with the status quo of little to no education or compliance taking place at a level that would reach their constituents.

I also want to mention that our organization did meet with other agribusiness and farm organizations, including the Kansas Corn Growers Association, Kansas Farm Bureau and Kansas Grain Sorghum Producers Association. We also invited representatives from the

Kansas Association of Wheat Growers and Kansas Soybean Association, but they failed to appear. One of the representative present at the meeting indicated he was also representing their interests. We had hoped to achieve a workable compromise that would address this growing environmental concern, but were given no suggestions on how to improve this legislative proposal. Some suggested that education of growers can take place without the registration requirement contained in this legislation. We fully support any and all educational efforts that will achieve greater compliance, but we also believe without this registration requirement, educational efforts by KDA will lack the focus this proposal will bring by identifying audience most likely in need of information. We also believe that with tightening budget restraints and no financial support, the resources simply may not exist to educate "all farmers" or "all private applicators" as will no doubt be proposed by opponents of this bill. KDA Secretary Polansky made it very clear to our leaders on October 20th that this type of registration program and an accompanying education program would need to be adequately funded.

Knowing this, one has to question the real intentions of the opponents of Senate Bill 464. We fail to see the \$10 one-time fee as an impediment for someone that is purchasing a piece of equipment that used typically ranges from \$5,000 to \$70,000 and new can range from \$50,000 to over \$150,000. One also has to question the real intentions of the opponents of this bill, when you consider that, to our knowledge, none of the opposing organizations have pledged support for House Bill 2622, which will maintain current funding levels for several consumer and environmental protection programs housed within the Kansas Department of Agriculture, including the Pesticide and Fertilizer Program. Our organization has pledged support for House Bill 2622. Our organization supports providing adequate funding for KDA and the support for Senate Bill 464 by agribusiness retailers, many of which will pay several hundreds of dollars to register their equipment, shows our intentions toward consumer and environmental protection are genuine.

As I begin to wrap-up, I would like to address a few of the comments I'm sure will be shared by our opponents:

I know our opponents will claim this bill is really about the commercial industry being afraid of a little competition. We've already faced that claim. I respond to that by stating that agribusiness retailers are not in anyway afraid of competing with individuals or entities that follow the same laws and rules that clearly apply to both of us.

I also believe you will hear that before this proposal is adopted, we must show factual information, scientific knowledge and economic impact studies to justify this legislation. I'm certain you will hear the question, "Show us where we've created an environmental problem". Once again, its no secret that very few contaminated sites have been identified at on-farm storage locations, simply because you don't often find what no one is looking for.

What we do know, for a fact, is that long-term storage and handling of bulk products and repeated loading of application equipment at a fixed location with the absence of the appropriate environmental safety structures, will lead to soil and water contamination. We know that because of the experiences of the commercial fertilizer and ag-chemical industry in Kansas. Below is a list of agribusiness sites that are currently under investigation or in the

process of being remediated for nitrate or pesticide contamination by the Kansas Department of Health and Environment.

KDHE Remediation Statistics (2003)

	Nitrate Contamination	Pesticide Contamination
Voluntary Cleanup Program	44	26
State Cooperative Program	27	9
State Water Plan	23	5
Total	94	40
Grand Total	134	

The commercial fertilizer and ag-chemical industry knows fully the economic impact of not implementing environmental stewardship practices and environmental protection structures. Below are the dollars that have been collected and remitted by the Kansas Agricultural Remediation Board (KARB) for the remediation of ag-related sites during the past two years alone.

KARB Remediation Reimbursements

Total Sites Receiving Funds:	94
Average Cleanup Reimbursement:	\$24,602
Total Cleanup Reimbursement:	\$2,312,601

Of the 94 sites that have received clean-up reimbursements, 69 (73%) were classified as pesticide or nitrate sites.

The overwhelming majority of these sites were not contaminated by a catastrophic incident, but rather the long-term environmental impact from storage and loading of products before load-pads and containment structures were required at commercial dealerships.

We would hope that stakeholders today would learn from these experiences and support the following:

- Support protection of our environment and our most precious natural resource (water).
- Support providing the Kansas Department of Agriculture with the appropriate tools to identify and educate stakeholders and achieve their objective – compliance.
- Support preserving the credibility of our environmental programs within KDA by making the difficult decisions necessary to ensure the trust and confidence of all Kansans.

I appreciate the opportunity to appear this morning in support of Senate Bill 464 and I will be happy to respond to questions at the appropriate time.

SENATE BILL No. 464

By Committee on Agriculture

2-5

9 AN ACT concerning pest control and fertilizer; relating to application
10 equipment; amending K.S.A. 2-2456 and repealing the existing section.

11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. K.S.A. 2-2456 is hereby amended to read as follows: 2-

13 2456. (a) The secretary ~~may, at his or her discretion,~~ shall require the
14 registration of any *application* equipment used in the ~~commercial~~ appli-
15 cation of pesticides, and any *application* equipment required to be so
16 registered may be marked for identification in a manner prescribed by
17 the secretary. Unannounced inspections may be made without charge to
18 determine if the *application* equipment is properly ~~registered,~~ calibrated
19 and ~~maintained in conformance with laws and rules and regulations,~~ and
20 the secretary may require repairs or other changes before its further use
21 for pesticide application. A list of requirements that ~~application~~ equip-
22 ment shall meet may be adopted by rules and regulations.

strike

23 (b) *The owner or lessee of the application equipment shall be respon-*
24 *sible to register the application equipment with the department on or*
25 *before July 1, 2005. The registration of the application equipment shall*
26 *remain valid until the application equipment is sold or the ownership or*
27 *lease is transferred to another person. After July 1, 2005, all application*
28 *equipment that is purchased or leased or otherwise transferred shall be*
29 *registered with the department by the owner or lessee of the application*
30 *equipment within 30 days of the date of purchase or transfer of ownership*
31 *of the application equipment.*

32 (c) *The secretary may charge a fee of \$10 per application equipment.*
33 *The payment shall be remitted with the registration form.*

, except aerial application equipment.

34 (d) The secretary may, in ~~his or her~~ the secretary's discretion, require
35 that any car, truck or other vehicle used for the purpose of applying
36 pesticides or transporting pesticide application equipment or personnel
37 to an application site be marked for identification purposes in a location
38 and manner as the secretary shall prescribe. ~~Provided, That if~~ such appli-
39 cation is for the purpose of controlling pests in the categories of either
40 (1) ornamental and turf pest control, or (2) industrial, institutional, struc-
41 tural and ~~health-related~~ health-related pest control.

42 (e) "Application equipment" shall mean any self-propelled ground or
43

1 *aerial apparatus containing more than 200 gallons used to apply any*
2 *pesticide.*

3 ~~(f) The secretary may assess a \$100 fine for any violation of this act.~~

4 New Sec. 2. (a) The secretary shall require the registration of any
5 application equipment used in the application of fertilizers and any equip-
6 ment required to be so registered shall be marked for identification in a
7 manner prescribed by the secretary.

8 (b) The registration of the application equipment shall remain valid
9 until the equipment is sold or the ownership or lease is transferred to
10 another person. The owner or lessee of the application equipment shall
11 be responsible to register the equipment with the department within 30
12 days of the purchase or transfer of ownership of the application
13 equipment.

14 (c) The secretary shall charge a fee of \$10 per application equipment.
15 The payment shall be remitted with the registration form.

16 (d) "Application equipment" shall mean any self-propelled ground or
17 aerial apparatus containing more than 200 gallons used to apply any liquid
18 fertilizer.

19 ~~(e) The secretary may assess a \$100 fine for any violation of this act.~~

20 ~~Sec. 3. K.S.A. 2-2456 is hereby repealed.~~

21 ~~Sec. 4. This act shall take effect and be in force from and after its~~
22 ~~publication in the statute book.~~

(f) "Self-propelled equipment" shall mean any ground equipment that is permanently configured and primarily used for the application of liquid pesticides. Self-propelled equipment shall not include farm tractors, liquid application equipment temporarily mounted on farm tractors, pull-type equipment or irrigation systems.

(g)

(h) All money received from the registration of the application equipment shall be remitted into the pesticide fee fund.

(i) All money received from the collection of any fines shall be remitted into the state general fund.

may

, except aerial application equipment.

(e) "Self-propelled equipment" shall mean any ground equipment that is permanently configured and primarily used for the application of liquid fertilizer. Self-propelled equipment shall not include farm tractors, liquid application equipment temporarily mounted on farm tractors, pull-type equipment or irrigation systems.

(f)

(g) All money received from the registration of the application equipment shall be remitted into the fertilizer fee fund.

(h) All money received from the collection of fines shall be remitted into the state general fund.

Sec. 3. The provisions of Section 1(b) and (c) and Sec. 2 (a) and (b) shall expire on July 1, 2014.

Sec. 4.

Sec. 5.



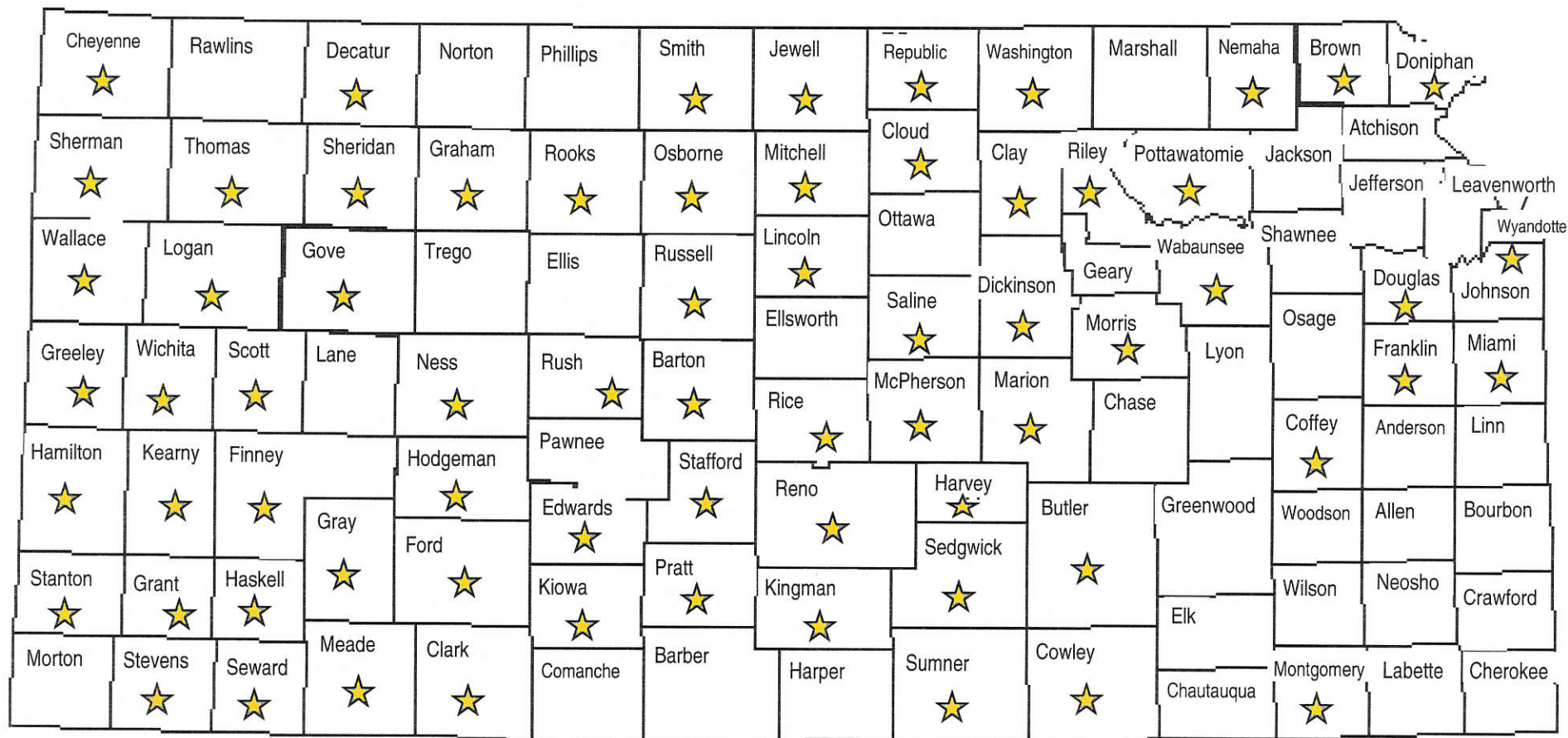


6-3





Kansas Agribusiness Retailers Association Comments in Support of Senate Bill 464



Location List -Support of SB 464

ADM-Collingwood Grain

Kansas City
Brownell
Oakley
Johnson
Jetmore
Goodland
Greensburg
Kanorado
Big Bow
Sublette
Cimarron
Copeland
Leoti
Manter
Trousdale
Dodge City
Cullison
Little River
Brewster
Hugoton
Shallow Water
Kinsley
Palco
McCraken
Lyons
Plains
Ryus
Moscow
Selkirk
Coolidge
Montezuma

Ag Service

Hillsboro
Whitewater

Boettcher Enterprises (2)

Beloit
Hunter
Montrose
Woodston
Stockton
Wessling

Cairo Co-operative Equity Exchange

Cairo
Arlington
Cunningham
Penalosa
Preston
Turon
Brown Spur

Co-Ag

Oakley
Page City
Mingo
Grinnell
Winona
Breton
Sequin
Menlo
Campus

Crop Service Center

Abilene
Assaria
Beverly

Cropland Co-op, Inc.

Ulysses
Lakin
Lydia
Liberal
Hickok

Dodge City Cooperative Exchange

Dodge City
Kalvesta
Jetmore
Ingalls
Ford
Montezuma
Hanston
Ensign

Farm Service Center, Inc.

Ellinwood

Farmco Inc.

Tribune

Farmers Co-op Elevator

Sabetha

Farmers Coop Grain Association

Wellington
Oxford
Mayfield
South Haven
Corbin
Rome

Farmers Cooperative Assn.

Talmage
Abilene
Salina
Solomon
Bennington
Longford
Culver

Farmers Cooperative Association

Manhattan
Onaga
Alta Vista
Dwight
Westmoreland

Farmers Grain & Supply (2)

Greensburg
Ashland

Farmers Union Co-operative Co.

Spring Hill

Farmway Co-op Inc. (2)

Beloit
Tipton
Clifton
Glen Elder
Lincoln
Cawker City
Hunter
Concordia
Denmark
Courtland
Belleville

Field Solutions LLC

Andale
Halstead
Valley Center
Mount Hope
Sedgwick

Great Bend Co-op Assn.

Great Bend
Albert
Boyd
Ellinwood
Pawnee Rock
Radium
Seward

Harveyville Seed Co, Inc.

Harveyville

Johnson Cooperative Grain Co.

Johnson
Manter
Saunders
Big Bow

Kanza Coop

Zenith
Byers
St. John
Pratt
Dillwyn

Krien Farm Supply

Bird City

Lone Pine Ag-Services, Inc.

Lecompton

Mid Kansas Coop Association

Moundridge
Roxbury
Gaines
Harms
Windom
Whitewater
Buhler
Inman
Walton
Newton
Lindsborg
Haven
Galva

Midway Co-op, Inc.

Osborne
Mankato
Downs
Lebanon
Bellaire
Portis
Alton
Burr Oak
Luray

Mid-West Fertilizer, Inc.

Paola

North Central Kansas Cooperative

Hope
Dillon
Woodbine
Navarre

Oberlin Fertilizer Inc.

Oberlin
Hill City

Right Cooperative Association

Wright
Arnold
Mullinville
Spearville
Kalvesta
Ness City
Laird
Wilroads

Scott Cooperative Association

Scott City
Pence
Shallow Water

SEK Grain Inc.

Coffeyville
Cherryvale
Liberty

Two Rivers Coop

Arkansas City
Udall
Geuda Springs

Turon Mill & Elevator, Inc.

Turon

Valley Coop Inc.

Winfield
New Salem
Burden
Atlanta
Hackney
Kellogg

Wallace County Cooperative Equity Exchange

Sharon Springs
Weskan

White Cloud Grain Company, Inc.

Hiawatha
Leona
White Cloud
Denton



DODGE CITY COOPERATIVE EXCHANGE

P.O. Box 610 • Dodge City, Kansas • 67801

(620) 225-4193 • Fax (620) 225-3366 • www.dodgecitycoop.com

To: 9 February 2004
Members of the Senate Agriculture Committee

From: Dodge City Cooperative Exchange, Inc: Dodge City, KS

Re: Support for Senate Bill 464

I appreciate the opportunity to submit comments in support of Senate Bill 464. Dodge City Cooperative, Inc. has provided agricultural services for 89 years including crop production inputs and agronomic services. We have and continue to make considerable investments in environmental containment structures and educational training for our employees to ensure we protect the environment. Our current budgeted outlays in 2004 include over \$3000000 in the Agronomy area. We also pay significant premiums for commercial liability insurance to ensure that while we are providing crop production services to Kansas farmers, we are also taking the necessary precautions to protect our customers and any other party we may unintentionally impact. Our premium for Application will be in excess of \$30000 this year.

Unfortunately, there is a growing trend in Southwest Kansas toward widespread ownership of commercial type fertilizer and ag-chemical application equipment by agricultural producers. This trend toward producer ownership of large equipment has also led to a significant increase of unlawful commercial business activity that appears to be going unnoticed by the Kansas Department of Agriculture (KDA). KDA is the state agency that regularly physically inspects our facility to ensure we are complying with all the laws and regulations that apply to the storage, transportation and application of fertilizers and ag-chemicals.

I am aware of at least 30 owners of large, commercial-type application equipment in our trade territory and also know that many of these large applicators are supported by farmer-owned bulk fertilizer and/or ag-chemical storage. At least 5 of these applicators are openly for hire to other producers with a wink-wink agreement between the parties. Unfortunately, we do not see the same scrutiny being focused on these operations by KDA as is applied to our operation. Additionally, I am also well aware that some of the owner/operators (most of which do not maintain a pesticide business license) of this equipment are performing custom application work for nearby farmers. Performing custom application of pesticides for compensation without a business license is clearly illegal, but once again we fail to see action by KDA to address this growing problem.

It is my understanding that Senate Bill 464 will require all owners of self-propelled fertilizer and pesticide application equipment with a capacity of greater than 200 gallons to be registered with the KDA. I believe the adoption of this legislation will be a positive first step that will enable KDA to identify and educate all owners of large application equipment that there are laws and rules in place that apply to them as owners of large application equipment.

Thank you for the opportunity to share these comments and concerns.

M John Bender
President

Dodge City Cooperative Exchange, Inc.



KRIEN FARM SUPPLY, L.L.C.
 WEST HIGHWAY 36
 P.O. Box 550
 BIRD CITY, KS 67731
 (785) 734-2315

Senate Agriculture Committee
 RE: Applicator Registration

To Whom It May Concern,

Krien Farm Supply, LLC is in full support of Senate Bill #464. This bill would require all owners of self propelled fertilizer and ag-chemical application equipment with a capacity of 200 gallons or more, to register their applicators with the Kansas Department of Agriculture. We believe if a farmer is doing custom application, than he should meet the same requirements professionals do.

A commercial applicator invests a considerable amount of time and money to obtain the proper training, licensing, permits and insurance to be able to apply fertilizer and chemicals, whereas a farmer is exempt from a majority of these regulations. Following are a few examples;

Farmers Regulations Commercial Applicators Regulations

Commercial Pesticide License Renewal	No	Yes - \$140
Pay Non-Certified Applicator	No	Yes - \$15
Hazmat Endorsement of CDL	?	Yes - \$50
Hazmat Training	?	Yes
Worker Protection Training	?	Yes
Personal Protective Equipment Training	?	Yes
Employee Right to Know	?	Yes
Hazard Communication	?	Yes
Nurse Truck License and Registration	\$600	\$1,750
Tank that sits on truck bed	\$427.00	\$2,900
DOT approved tank	No	Yes
Required Bon or Liability Insurance	?	Yes
Containment Requirements	?	Yes

I have probably missed some things here, but I think that registering their applicators is only a beginning to what a commercial applicator business has to comply with. Thank you for your time and concern.

Sincerely,

Ken Krien
 Krien Farm Supply, L.L.C.



FIELD SOLUTIONS, L.L.C.

219 N. MAIN
ANDALE, KS 67001
316-444-2141
FAX 316-444-2233
1-888-443-2141

P.O. BOX 88
220 MAIN
ANDALE, KS 67001
316-444-2141
1-888-443-2141

P.O. BOX 188
143 N. COLORADO
COLWICH, KS 67030
316-796-1314

302 W. 1st
HALSTEAD, KS 67056
316-835-2261

625 S. OHIO
MT. HOPE, KS 67108
316-667-2441

P.O. BOX M
4th & JACKSON
SEDGWICK, KS 67135
316-772-5141

R.R. 1, BOX 162
10730 AVENUE F
VALLEY CENTER, KS 67147
316-744-0438
(Furley Branch)

To: Members of the Senate Agriculture Committee
From: Joe Schauf, Field Solutions LLC
Re: Support for Senate Bill 464

I appreciate the opportunity to express my support of Senate Bill 464. Field Solutions LLC has been in business since 1940 operating under the LLC or one of its parent companies in South Central Kansas. We have strived to serve our producers with the highest quality goods and services while maintaining a close eye on the environment. We pay significant premiums for commercial liability insurance to insure that we are taking every precaution to protect our producers and any other party we may unintentionally impact.

In recent years we have invested large sums of capital to construct fertilizer containment and load pads to insure that our facilities are safe and environmentally friendly. However, the trends I see in the Agriculture industry today concern me. There are more and more producers acquiring their own applicators and not only applying for themselves but also commercially applying for their neighbors and disguising it as bartering. I have personally been on premises that literally have piles of used chemical containers that have no lids nor have they been rinsed out. You can look around and see no containment or load pads on these premises. These sites are going unregulated because the Kansas Department of Agriculture (KDA) is unaware of their existence. While attempts have been made to enlighten the KDA it seems to be falling on deaf ears.

If I understand Senate Bill 464 correctly it will require owners of self-propelled fertilizer and pesticide applicators with a tank capacity of 200 gallons or more to register their applicator. I believe that this is a good first step in enabling the KDA to identify where these large applicators are so that the laws that are in place to protect our environment can be enforced.

Thank you for the opportunity to share these comments and concerns.

To: Members of the Senate Agriculture Committee

From: **Dean Sparks ; Farmers Cooperative Association ; Talmage , Ks.**

Re: Support for Senate Bill 464

I appreciate the opportunity to submit comments in support of Senate Bill 464. **Farmers Cooperative Association** has proudly served the agricultural producers in North Central Kansas for the past **ninety six** years by providing the best crop production inputs and agronomic services possible. We have and continue to make considerable investments in environmental containment structures and educational training for our employees to ensure we protect the environment. We also pay significant premiums for commercial liability insurance to ensure that while we are providing crop production services to Kansas farmers, we are also taking the necessary precautions to protect our customers and any other party we may unintentionally impact.

Unfortunately, there is a growing trend in **North Central Kansas** toward widespread ownership of commercial type fertilizer and ag-chemical application equipment by agricultural producers. This trend toward producer ownership of large equipment has also led to a significant increase of unlawful commercial business activity that appears to be going unnoticed by the Kansas Department of Agriculture (KDA). KDA is the state agency that regularly physically inspects our facility to ensure we are complying with all the laws and regulations that apply to the storage, transportation and application of fertilizers and ag-chemicals.

I am aware of at least **twenty** owners of large, commercial-type application equipment in our trade territory and also know that many of these large applicators are supported by farmer-owned bulk fertilizer and/or ag-chemical storage. Unfortunately, we do not see the same scrutiny being focused on these operations by KDA as is applied to our operation. Additionally, I am also well aware that some of the owner/operators (most of which do not maintain a pesticide business license) of this equipment are performing custom application work for nearby farmers. Performing custom application of pesticides for compensation without a business license is clearly illegal, but once again we fail to see action by KDA to address this growing problem.

It is my understanding that Senate Bill 464 will require all owners of self-propelled fertilizer and pesticide application equipment with a capacity of greater than 250 gallons to be registered with the KDA. I believe the adoption of this legislation will be a positive first step that will enable KDA to identify and educate all owners of large application equipment that there are laws and rules in place that apply to them as owners of large application equipment.

Thank you for the opportunity to share these comments and concerns.



Farmers Grain and Supply Company

316-723-3351 311 N. Main

GREENSBURG, KANSAS 67054-1599

To: Members of the Senate Agriculture Committee

From: Willie Schmidt, Farmers Grain & Supply

Re: Support for Senate Bill 464

I appreciate the opportunity to submit comments in support of Senate Bill 464. Farmers Grain & Supply has proudly served the agricultural producers in south-central Kansas for the past 96 years by providing the best crop production inputs and agronomic services possible. We have and continue to make considerable investments in environmental containment structures and educational training for our employees to ensure we protect the environment. We also pay significant premiums for commercial liability insurance to ensure that while we are providing crop production services to Kansas farmers, we are also taking the necessary precautions to protect our customers and any other party we may unintentionally impact.

Unfortunately, there is a growing trend in south-central Kansas toward widespread ownership of commercial type fertilizer and ag-chemical application equipment by agricultural producers. This trend toward producer ownership of large equipment has also led to a significant increase of unlawful commercial business activity that appears to be going unnoticed by the Kansas Department of Agriculture (KDA). KDA is the state agency that regularly physically inspects our facility to ensure we are complying with all the laws and regulations that apply to the storage, transportation and application of fertilizers and ag-chemicals.

I am aware of several owners of large, commercial-type application equipment in our trade territory and also know that many of these large applicators are supported by farmer-owned bulk fertilizer and/or ag-chemical storage. Unfortunately, we do not see the same scrutiny being focused on these operations by KDA as is applied to our operation. Additionally, I am also well aware that some of the owner/operators (most of which do not maintain a pesticide business license) of this equipment are performing custom application work for nearby farmers. Performing custom application of pesticides for compensation without a business license is clearly illegal, but once again we fail to see action by KDA to address this growing problem.

It is my understanding that Senate Bill 464 will require all owners of self-propelled fertilizer and pesticide application equipment with a capacity of greater than 200 gallons to be registered with the KDA. I believe the adoption of this legislation will be a positive first step that will enable KDA to identify and educate all owners of large application equipment that there are laws and rules in place that apply to them as owners of large application equipment.

Thank you for the opportunity to share these comments and concerns.

Willie Schmidt

Crop Production Mgr.
Farmers Grain & Supply

WHITE CLOUD GRAIN COMPANY, Inc.

1803 Oregon • P.O. Box 276
HIAWATHA, KANSAS 66434

To: Members of the Senate Agriculture Committee

From: Warren I. Beavers, White Cloud Grain Company, Inc.

Re: Support for Senate Bill 464

I appreciate the opportunity to submit comments in support of Senate Bill 464. White Cloud Grain Co. has proudly served the agricultural producers in Brown, Doniphan and Atchison counties for the past 42 years by providing the best crop production inputs and agronomic services possible. We have and continue to make considerable investments in environmental containment structures and educational training for our employees to ensure we protect the environment. We also pay significant premiums for commercial liability insurance to ensure that while we are providing crop production services to Kansas farmers, we are also taking the necessary precautions to protect our customers and any other party we may unintentionally impact.

Unfortunately, there is a growing trend in Northeast Kansas toward widespread ownership of commercial type fertilizer and ag-chemical application equipment by agricultural producers. This trend toward producer ownership of large equipment has also led to a significant increase of unlawful commercial business activity that appears to be going unnoticed by the Kansas Department of Agriculture (KDA). KDA is a state agency that regularly physically inspects our facility to ensure we are complying with all the laws and regulations that apply to the storage, transportation and application of fertilizers and ag-chemicals.

I am aware of at least 6 to 10 owners of large, commercial-type application equipment in our trade territory, and some of these owner/operators (most of which do not maintain a pesticide business license) of this equipment are performing custom application work for nearby farmers. Performing custom application of pesticides for compensation without a business license is clearly illegal, but once again we fail to see action by KDA to address this growing problem.

It is my understanding that Senate bill 464 will require all owners of self-propelled fertilizer and pesticide application equipment with a capacity of greater than 200 gallons to be registered with the KDA. I believe the adoption of this legislation will be a positive first step that will enable KDA to identify and educate all owners of large application equipment that there are laws and rules in place that apply to them as owners of large application equipment.

Thank you for the opportunity to share these comments and concerns.





Proud to be farmer owned*

Farmers Co-op Elevator

204 N. 9th, P.O. Box F
Sabetha, Kansas 66534
Telephone: 785-284-2185
Facsimile: 785-284-3874

To: Members of the Senate Agriculture Committee
From: Darin Marti, Farmers Cooperative Elevator, Sabetha, KS
Re: Support for Senate Bill 464

I appreciate the opportunity to submit comments in support of Senate Bill 464. The Farmers Cooperative Elevator has proudly served the agricultural producers in Nemaha and Brown Counties for the past 52 years. We hang our hat on the fact that we strive to provide the best possible service and continue to make considerable investments in environmentally friendly facilities and educational training for employees. Our commercial liability insurance premiums have risen dramatically but we continue to purchase that insurance to protect our customers and any other party we may unintentionally impact.

Recently, there has been a growing trend in northeast Kansas toward producer ownership of commercial type fertilizer and ag-chemical application equipment. This trend has also led to a significant increase of unlawful commercial business activity that has virtually gone unnoticed by the Kansas Department of Agriculture (KDA). KDA regularly makes a physical inspection of our facilities to ensure we are complying with all laws and regulations that apply to storage, transportation and application of fertilizers and ag-chemicals.

Our cooperative is small in comparison to many others, but there are at least three owners of large, commercial type application equipment in our trade territory that perform varying amounts of custom application services. These individuals are operating without a business license and do not have a custom applicators license to do custom application for other producers. This is clearly an illegal activity, but KDA is again failing to address this issue. It is too easy to find the legally operating dealers, but takes a little more effort to locate the illegal operators.

It is my understanding that Senate Bill 464 will require all owners of self-propelled application equipment with a capacity of greater than 200 gallons to be registered with KDA. I believe adoption of this legislation will be a positive first step that will enable KDA to identify and educate all owners of this equipment that there are laws and rules in place that apply to everyone. I believe it is time to require all of us to abide by regulations that were put in place to protect not only the environment, but each other.

Thank you for the opportunity to share these comments and concerns.

Darin Marti, General Manager
Farmers Cooperative Elevator
Sabetha, KS



To: Members of the Senate Agriculture Committee

From: **Woody Naasz, Boettcher Enterprises**

Re: Support for Senate Bill 464

I appreciate the opportunity to submit comments in support of Senate Bill 464. **Boettcher Enterprises** has proudly served the agricultural producers in **Northcentral, Kansas** for the past 12 years by providing the best crop production inputs and agronomic services possible. We have and continue to make considerable investments in environmental containment structures and educational training for our employees to ensure we protect the environment. We also pay significant premiums for commercial liability insurance to ensure that while we are providing crop production services to Kansas farmers, we are also taking the necessary precautions to protect our customers and any other party we may unintentionally impact.

Unfortunately, there is a growing trend in **North Central, Kansas** toward widespread ownership of commercial type fertilizer and ag-chemical application equipment by agricultural producers. This trend toward producer ownership of large equipment has also led to a significant increase of unlawful commercial business activity that appears to be going unnoticed by the Kansas Department of Agriculture (KDA). KDA is the state agency that regularly physically inspects our facility to ensure we are complying with all the laws and regulations that apply to the storage, transportation and application of fertilizers and ag-chemicals.

I am aware of at least 10 owners of large, commercial-type application equipment in our trade territory and also know that many of these large applicators are supported by farmer-owned bulk fertilizer and/or ag-chemical storage. Unfortunately, we do not see the same scrutiny being focused on these operations by KDA as is applied to our operation. Additionally, I am also well aware that some of the owner/operators (most of which do not maintain a pesticide business license) of this equipment are performing custom application work for nearby farmers. Performing custom application of pesticides for compensation without a business license is clearly illegal, but once again we fail to see action by KDA to address this growing problem.

It is my understanding that Senate Bill 464 will require all owners of self-propelled fertilizer and pesticide application equipment with a capacity of greater than 250 gallons to be registered with the KDA. I believe the adoption of this legislation will be a positive first step that will enable KDA to identify and educate all owners of large application equipment that there are laws and rules in place that apply to them as owners of large application equipment.

Thank you for the opportunity to share these comments and concerns.

*Woody Naasz
Boettcher Enterprises*



Box 518
Tribune, Kansas 67879

Telephone 316-376-4282
Fax 316-376-2415

TO: Members of the Senate Agriculture Committee
FROM: Mike Hampel, Farmco, Inc.
SUBJECT: Senate Bill 464 – SUPPORT!

As the Agronomy Services Manager for Farmco, Inc., I appreciate the opportunity to submit my reasons for the support of Senate Bill 464. With over 55 years of service to the western Kansas community, Farmco, Inc. strives to provide the area ag producers with the highest quality inputs available, topnotch service, and the latest in technology and information. The employees of Farmco, Inc. are our most valuable asset, and we continue an on-going training program to ensure that they maintain the quality standards that our customer-owners deserve. Environmentally, we have invested over \$250,000 in containment control in the form of concrete containment, load pads, and buildings for dry fertilizer, liquid fertilizer, and ag chemicals. Furthering our commitment to a safe ag arena, we pay substantial premiums to maintain our commercial liability insurance, and we hold the following licenses:

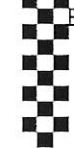
- Kansas Pesticide Dealer Licenses #769 and #771 (Sales of Restricted Use Products)
- Pesticide Business License #2785 (Application of Restricted Use Products)
- Commercial Fertilizer Blending Licenses #FB4066 and #FB4067
- Pesticide Bulk Storage Facility Registrations for two (2) facilities
- Fertilizer Bulk Storage Facility Registrations for two (2) facilities
- EPA Establishment Numbers for each of four (4) bulk chemical facilities
- Commercial Pesticide Applicator Licenses #3578 and #xxxx
- Certified Crop Advisor #03630 (The only CCA in our trade area)

With the onslaught of illegal custom application in western Kansas, we have been forced to liquidate one of our three (3) custom spray rigs as well as eliminate several jobs. Illegal custom application is being done by farmers who own either pull-type or self-propelled spray rigs. This activity appears to be unnoticed by the Kansas Department of Agriculture (KDA). We, however, are subject to regular inspections of our facilities, equipment, and records by the KDA. One of the major issues surrounding illegal custom application by farmers is the lack of a "Statement of Service" being provided to the customer. Farmers who hold a "Private Restricted Use" license are only required to maintain records when restricted use chemicals are applied. The professional applicators, like Farmco, Inc., are required to provide a "Statement of Service" for all custom applications, which includes restricted and non-restricted ag chemicals. This loophole in the law allows farmers to buy, sell, and apply ag chemicals to other farmers without any responsibility to their communities or the KDA. But in this process they are breaking the law by not possessing the necessary licenses, storage facilities, load pads, containment, and equipment as required by the KDA. An analogy to this would be to allow farmers the freedom to drive as fast as they want on state highways with no risk of a speeding ticket.

In our western Kansas trade area, we estimate that at least 75% of all farmers own a spray rig of some sort. Currently, we have at least eight (8) farmers (that I am aware of) who are doing custom application, for hire, to other farmers or land owners in our western Kansas trade area; all without the knowledge of the KDA. Senate Bill 464 would allow the KDA to monitor all custom application, especially if all applications (both private and custom) require record-keeping in the form of a "Statement of Service". In addition to the monitoring of all ag chemical applications by the KDA, I feel the KDA should issue a minimum monetary fine of \$5,500 per incident to any, and all, illegal custom applications. This would parallel the EPA fines of \$5,500 per incident for illegal re-packaging of ag chemicals.

It is my understanding that Senate Bill 464 will require all owners of self-propelled fertilizer and pesticide application equipment with a capacity of greater than 200 gallons to be registered with the KDA. But don't forget about the pull-type application equipment, as well. Adoption of this legislation will be a positive step in allowing the KDA to identify, monitor, and educate all owners of application equipment.

Thank you for allowing me the opportunity to share my comment, concerns, and views surrounding Senate Bill 464.



Farmway Coop
P.O. 256
Courtland, KS 66939
February 13, 2004

Senate Agriculture Committee:

I am a Division Manager for a cooperative in North Central Kansas and have noticed a tremendous increase in the number of producers who own commercial-type applicators. Three to five years ago, only a handful of producers had their own application equipment, this has changed dramatically.

In my area, I am estimating over 50 percent of the ground is sprayed by unlicensed applicators and unregulated application equipment. Very few of the privately owned applicators have the training and knowledge of the current laws. If the state continues to allow the trend to privately own application equipment without the same regulations, as we have to abide by, it will only be a matter of time before we start seeing more problems and possibly bigger disasters.

All commercial type application equipment and the enforcement of fertilizer and pesticide laws and regulations, should be the same no matter if they are owned by a fully regulated business, or an unregulated business or producer.

Respectfully,

Scott Barrett
Northeast Division Operations Manager
Farmway Coop Inc.

BOETTCHER ENTERPRISES, INC.

Jarold W. Boettcher
President
424 East Elliott
P.O. Box 486
Beloit, Kansas 67420

Telephone 785-738-4181, Ext 124
e-mail: boettcher@boettcherenterprises.com
e-FAX 425-984-8668
cell: 785-738-8159

To: Members of the Senate Agricultural Committee

From: Jarold Boettcher, President, Boettcher Enterprises, Inc., Beloit, Kansas

Re: Support for Senate Bill 464

February 11, 2004

Thank you for the opportunity to offer comments in support of Senate Bill 464. Our Company is proud to be serving agriculture producers in 12 counties in Kansas and 2 in Nebraska. Significant trends in farming practices and the combined roles of custom applicators, such as our Company, and the traditional farmer applicator present challenges as regards a) compliance with the law; b) fair, consistent, and legal business practices; c) and protection of the environment.

- 1) The agricultural services input businesses such as our own have learned a great deal in the past 20 years regarding the actual and potential impact of our conduct upon the environment. Unintended or uninformed activities in the past have resulted in various agriculture sites incurring significant remediation costs at commercial sites. Left totally unregulated and unknown, similar activities will eventually lead to the environment being impacted at farm sites.
- 2) Our industry is heavily regulated by the Kansas Department of Agriculture, the Kansas Department of Health and Environment, the Kansas Department of Transportation, and a host of Agencies of the Federal Government. Such regulation is needed, accepted, and in the vast majority of cases, has led to growing compliance.
- 3) The number of farmer owned sprayers has increased significantly in the last 10 years. In the past, many of these sprayers were fairly small, used as 3-point hitch devices, and/or were various pull-type equipment. In the past 5 years or so, large, self propelled applicators, owned and operated by farmers, have become common. Indeed, in several areas of the State of Kansas, the number of farmer-owned and operated sprayers significantly exceeds the number of applicators owned and operated by licensed and regulated commercial applicators. By their activities, some owner/operators may already be unknowingly violating current law, both state and federal.
- 4) Perhaps driven by sprayer economics, many farmers are now spraying for their

neighbors and other farmers, both near and far. The farmer applicator in most cases is neither registered nor regulated by KDA, KDHE, or any other body. An application license is most likely to be a farmer license and not a commercial license. Having a commercial applicator's license involves a higher standard of care and responsibility, both for one's own actions and for actions which could impact others. Such responsibility involves on-going training, registration, inspection of spray records, and a business license issued by KDA. Compliance thus involves sound and consistent business practices which have associated costs. Under current conditions, such costs are not borne by a farmer doing commercial spraying for others, either for hire or by barter, and the actual activity is identical to that performed by a licensed and insured commercial applicator.

- 5) Anyone operating a chemical sprayer for hire needs to be identified in order that they are properly informed as to the obligations assumed by their actions and the responsibilities such individuals have under current law.
- 6) SB 464 would provide a mechanism whereby the Department of Agriculture can identify farm businesses operating a commercial sized and self-propelled applicator. This bill would be a first and vital step towards education and building awareness of the potential impact that commercial oriented spraying activity could have upon the environment.
- 7) Despite allegations to the contrary, the bill would not require inspections of equipment; it would not require calibration of equipment; nor would it require farmers to report new information on their spraying activities. Such reporting may be covered already under Federal Law where restricted use pesticides are involved. Moreover, a careful reading of most farm liability insurance policies would reveal that such policies provide no liability coverage for off-farm activity. Most farmers are unaware of this exclusion and to protect their own operations, may need to seek additional insurance coverage should they continue to engage in commercial type activities. Having such insurance coverage would provide protection to other farmers who hire their spraying done. A commercial applicator is already required to have such coverage.
- 8) The Kansas Department of Agriculture needs SB 464 in order to discharge their responsibilities under existing law.

Thank you for your consideration of my comments.

JWB/jb

Ag Service

INCORPORATED

1830 Kanza • Hillsboro, Kansas 67063
Phone (620) 947-3166

To: Members of the Senate Agriculture Committee

From: Randy Whisenhunt, Ag Service Inc., Hillsboro, KS

Re: Support for Senate Bill 464

I appreciate the opportunity to submit comments in support of Senate Bill 464. Ag Service Inc. has proudly served the agricultural producers in central Kansas for the past 30 years by providing the best crop production inputs and agronomic services possible. We have and continue to make considerable investments in environmental containment structures and training for our employees to ensure we protect the environment. We also pay ever increasing premiums for commercial liability insurance to ensure that while we are providing crop production services to Kansas farmers, we are also taking the necessary precautions to protect our customers and any other party we may unintentionally impact.

Unfortunately, there is a growing trend in Kansas toward widespread ownership of commercial type fertilizer and ag-chemical application equipment by agricultural producers. This trend toward producer ownership of large equipment has also led to a significant increase of unlawful commercial business activity that appears to be going unnoticed by the Kansas Department of Agriculture (KDA). KDA is the state agency that regularly physically inspects our facility to ensure we are complying with all the laws and regulations that apply to the storage, transportation and application of fertilizers and ag-chemicals.

I know of at least 6 owners of large, commercial-type application equipment in our trade territory and also know that many of these large applicators are supported by farmer-owned bulk fertilizer and/or ag-chemical storage. Unfortunately, we do not see the same scrutiny being focused on these operations by KDA as is applied to our operation. Additionally, I am also well aware that some of the owner/operators (most of which do not maintain a pesticide business license) of this equipment are performing custom application work for neighbors. Performing custom application of pesticides for compensation without a business license is clearly illegal, but once again we fail to see action by KDA to address this growing problem.

It is my understanding that Senate Bill 464 will require all owners of self-propelled fertilizer and pesticide application equipment with a capacity of greater than 200 gallons to be registered with the KDA. I believe the adoption of this legislation will be a positive first step that will enable KDA to identify and educate all owners of large application equipment that there are laws and rules in place that apply to them as owners of large application equipment.

Thank you for the opportunity to share these comments and concerns.

Randy Whisenhunt

ADM - Collingwood Grain

Hwy 56 P.O. Box 186

Copeland, Ks 67837

Phone 620-668-5534

Fax 620-668-5539

2-13-04

To: Senate Agriculture Committee

From: Gary Gillespie-manager

Subject: SUPPORT for Senate Bill 464

I would like to comment on SB 464, which would require the registration of all self-propelled application equipment with a capacity of 200 gallons or more.

I have worked for ADM-Collingwood Grain for sixteen years, serving the producers of Southwest Kansas. We do our best to provide our customers with the best agronomic services possible. With the intense competition in our industry and the enormous amount of expense we incur to remain in business (insurance, regulatory, operating fees, etc.) it is extremely difficult to remain profitable.

I am very concerned about the trend toward ownership of commercial application equipment by producers coupled with their tendency to make unlawful applications. Custom applications made for neighbors are commonplace as a means of justifying their purchase of this equipment.

I believe that the owners of this equipment should be held to the same standards as the rest of the industry. This would help to level the playing field and ultimately preserve the integrity of the custom application business.

Thank you for your time and the opportunity to comment on these concerns.

**SCOTT COOPERATIVE ASSOCIATION**

P. O. Box 350
SCOTT CITY, KANSAS 67871
Phone: (316) 872-5823
Fax: (316) 872-5417

February 11, 2004

TO: Members of the Senate Agriculture Committee

FROM: Terry Phillips
Crop Production Mgr
Scott Cooperative Assn

Re: Support for Senate Bill 464

Gentleman,

I am writing this letter to show our support for Senate Bill 464. Scott Cooperative has served its agricultural producers in West Central Kansas since 1957 by providing the best crop production inputs and agronomic services possible. Over the years we have made large investments at all of our locations in environmental containment, load and unload pads, and warehousing to comply with KDA regulations. We also pay significant premiums for commercial liability insurance, that we are proud to say we rarely use, but in today's world and by law it is a must.

With the growing trend of large commercial type application equipment being purchased for use on the farm, there is the significant increase of unlawful commercial business activity to help off set their large investment. This appears to go unnoticed by the Kansas Department of Agriculture (KDA). KDA is the state agency that regularly physically inspects our facility to ensure we are complying with all the laws and regulations that apply to the storage, transportation and application of fertilizers and ag-chemicals.

I am aware of over 50 commercial-type applicators in our trade territory that are farmer owned. Many of these units are of the large expensive class. I am also aware that some of these units are performing custom application work for nearby producers. Performing custom application of pesticides for compensation without a business license or commercial applicators license is clearly illegal.

It is my understanding that Senate Bill 464 will require all owners of self-propelled fertilizer and Ag pesticide sprayers with a capacity of more than 200 gallons be registered with the KDA. The adoption of this legislation will be a positive step in the right direction. Farmers need to be aware that there are rules and regulations in place that apply to them if they perform custom application.

Thank you for the opportunity to share these comments and concerns.

A handwritten signature in cursive script that reads "Terry A. Phillips".
Terry A Phillips

FARM SERVICE CENTER, INC.

85 S.E. 115th Ave., Ellinwood, KS 67526
(316) 564-2855

To: Members of the Senate Agricultural Committee

From: Johnny Schaben, President, Farm Service Center, Inc.

Re: Support for Senate Bill 464

I want to thank you for the opportunity to submit comments in support of Senate Bill 464. Farm Service Center, Inc. has served Central Kansas for the past 26 years providing crop production products and agronomic services to our farmer customers. We have spent a substantial amount of time and money building environmental containment facilities and training our employees to ensure that the environment is protected. We also purchase liability insurance that is hard to find and very expensive. We do this so that we can protect our customers and any other party that we may unintentionally impact.

There is a growing trend in Central Kansas toward more farmer applied fertilizer and ag chemicals. Farmers operate at least 10 times the application equipment that they did 7 years ago. This practice has created a substantial amount of applications on land that is not operated by the farmer applicator. These applications are not regulated by the Kansas Department of Agriculture because they don't know about them. The Kansas Department of Agriculture regularly inspects our records and facilities to ensure we comply with all the rules and regulations of the state in relation to application, storage and transportation of fertilizers and ag chemicals. Any time part of an industry is heavily regulated and the rest of that industry is not regulated there will be a tendency for the unregulated portion to grow because of the decreased cost involved. This does nothing to protect the environment. That is what these rules and regulations were designed to do.

The Kansas Department of Agriculture does not use the same scrutiny with these farmer applicators that they use with our operation. The laws are difficult to enforce and to apply to farmer applicators the way they are written. It is difficult for the KDA to determine who is operating in a correct manner. Many of the farmers don't realize that some of the applications they are doing are illegal.

I understand that Senate Bill 464 will require all owners of fertilizer and pesticide application equipment with a capacity greater than 200 gallons to be registered with the KDA. I believe the adoption of this legislation will be a positive first step that will enable KDA to identify and educate all owners of large application equipment that there are laws and rules in place that apply to them as owners of application equipment. This should allow all of us to do a better job of protecting the environment.

Thank for the opportunity to share these comments and concerns.

Johnny Schaben

FGS Farmers Grain & Supply

311 N. Main Street
Greensburg, Kansas 67054

Phone: 620-723-3351
Fax: 620-723-2101

To: Members of the Senate Agriculture Committee
From: Steve Magette, President
Re: Support for Senate Bill 464

I appreciate the opportunity to submit comments in support of Senate Bill 464. Farmers Grain & Supply Co. has proudly served the agricultural producers in Southwest Kansas for the past 56 years by providing the best crop production inputs and agronomic services possible. We have and continue to make considerable investments in environmental containment structures and educational training for our employees to ensure we protect the environment. We also pay significant premiums for commercial liability insurance to ensure that while we are providing crop production services to Kansas farmers, we are also taking the necessary precautions to protect our customers and any other party we may unintentionally impact.

Unfortunately, there is a growing trend in this area toward widespread ownership of commercial type fertilizer and ag-chemical application equipment by agricultural producers. This trend toward producer ownership of large equipment has also led to a significant increase of unlawful commercial business activity that appears to be going unnoticed by the Kansas Department of Agriculture (KDA). We do not see the same scrutiny being focused on these operations by KDA as is applied to our operation. Additionally, I am also well aware that some of the owner/operators (most of which do not maintain a pesticide business license) of this equipment are performing custom application work for nearby farmers. Performing custom application of pesticides for compensation without a business license is clearly illegal, but once again we fail to see action by KDA to address this growing problem.

It is my understanding that Senate Bill 464 will require all owners of self-propelled fertilizer and pesticide application equipment with a capacity of greater than 200 gallons to be registered with the KDA. I believe the adoption of this legislation will be a positive first step that will enable KDA to identify and educate all owners of large application equipment that there are laws and rules in place that apply to them as owners of large application equipment.

Thank you for the opportunity to share these comments and concerns.



Keith Karnes

Crop Production Manager
 Assistant General Manager
 (785) 672-3300
 415 West 2nd.
 Oakley KS, 67748

Breton
 462-8642

Campus
 672-3822

Grinnell
 824-3201

Merilo
 855-2256

Mingo
 462-2063

Oakley
 672-4371

Page City
 846-7471

Rexford
 687-3705

Russell Springs

Seguin
 675-3516

Winona
 846-7451

To: Members of the Senate Agriculture Committee
 Re: Support for Senate Bill 464

I appreciate the opportunity to submit comments in support of Senate Bill 464. CO-AG has proudly served the agricultural producers in Northwest Kansas for the past 25+ years by providing the best crop production inputs and agronomic services possible. We have and continue to make considerable investments in environmental containment structures and educational training for our employees to ensure we protect the environment. We also pay significant premiums for commercial liability insurance to ensure that while we are providing crop production services to Kansas farmers, we are also taking the necessary precautions to protect our customers and any other party we may unintentionally impact.

Unfortunately, there is a growing trend in Northwest Kansas toward widespread ownership of commercial type fertilizer and ag-chemical application equipment by agricultural producers. This trend toward producer ownership of large equipment has also led to a significant increase of unlawful commercial business activity that appears to be going unnoticed by the Kansas Department of Agriculture (KDA). KDA is the state agency that regularly physically inspects our facility to ensure we are complying with all the laws and regulations that apply to the storage, transportation and application of fertilizers and ag-chemicals.

I am aware of at least 15 owners of large, commercial-type application equipment in our trade territory and also know that many of these large applicators are supported by farmer-owned bulk fertilizer and/or ag-chemical storage. Unfortunately, we do not see the same scrutiny being focused on these operations by KDA as is applied to our operation. Additionally, I am also well aware that some of the owner/operators (most of which do not maintain a pesticide business license) of this equipment are performing custom application work for nearby farmers. Performing custom application of pesticides for compensation without a business license is clearly illegal, but once again we fail to see action by KDA to address this growing problem.

It is my understanding that Senate Bill 464 will require all owners of self-propelled fertilizer and pesticide application equipment with a capacity of greater than 200 gallons to be registered with the KDA. I believe the adoption of this legislation will be a positive first step that will enable KDA to identify and educate all owners of large application equipment that there are laws and rules in place that apply to them as owners of large application equipment.

Thank you for the opportunity to share these comments and concerns.

Keith Karnes



Agronomy Division

P.O. Box 177, Walton Kansas, 67151 (620) 837-3313

To: Senate Agriculture Committee

Re: Senate Bill 464

In our trade area, we are recognizing a growing trend towards producer owned spraying equipment. Whether it's due to economics or a good sprayer retailer in the area is not the concern. The concern is that this trend increases the potential risks associated with application of pesticides, by those parties that aren't adhering to the regulatory guidelines set out by State and Federal Governments.

We need to have equal accountabilities and enforcement across the entire Ag industry with regards to fertilizer and pesticide laws and regulations. The Ag retail industry cannot afford to continue competing under the current system, with those parties who don't incur the same regulatory guidelines and expenses associated with compliance.

Senate Bill 464 would require all owners of self-propelled fertilizer and ag-chemical application equipment with a capacity of 200 gallons or more to register their applicators (rigs) with the Kansas Department of Agriculture (KDA). The passing of this Bill will also help in the Industries on-going efforts towards sound Environmental Stewardship practices, creating a safer and healthier Agriculture Environment.

Sincerely,
John Roth
Mid Kansas Cooperative
Walton KS, 67151

CAIRO CO-OPERATIVE EQUITY EXCHANGE

CAIRO • CALISTA • CUNNINGHAM • PRESTON • TURON • WALDICK • PENALOSA • BROWN'S SPUR • ARLINGTON
100 CAIRO MAIN, BOX 45 <> CUNNINGHAM, KS. 67035 - 9316

www.cairocoop.com
Ed Laing, General Manager

Email cairocoop@jway.net
FAX 620 672-2204
Phone 620-672-3961

To: Members of the Senate Agricultural Committee

From: Ed Laing, General Manager Cairo Cooperative Equity Exchange

Re: Support for Senate Bill 464

I am sure that many agricultural retailers will be willing to share with you their concerns regarding the proliferation of large, farmer-owned spray rigs throughout the State of Kansas. I am sure they can also recite numerous cases (as can I) of such rigs being used for custom application of pesticides and herbicides in defiance of State law. Most of these retailers will, I think, confirm that this problem is getting larger not smaller.

I am aware of one case where a farmer was turned in to the Dept. of Ag. for doing custom application and when he was checked they examined other parts of his operation but did not press the issue of whether he had or had not performed custom application work.

I am also aware of a farmer bulk fertilizer storage facility that will hold over 125 tons of product. This facility has been visited several times by inspectors and still does not have any sign of containment or loading pad.

My company has had loading pads and containment for years and we keep extensive records of where we do application and what chemicals we use. Inspectors constantly revisit our facilities and review our records looking for maintenance or clerical errors or omissions. Our insurance carrier further monitors our claims and insists we maintain a low loss ratio or risk cancellation. Isn't it about time that everyone in the "business" gets the same treatment. Why do we let some people operate "below the radar"?

The argument that there is not enough time or personnel to monitor the farmer-owned rigs is not valid. It is a question of priorities. Why check the difficult, "below the radar" sites when you can—with very little hassle—spend the whole day checking hundreds of records at one location on the off chance someone may have inadvertently omitted legally required information. Does any body know how many (or more likely, few) serious violations turn up as a result of periodic inspections at retailer's sites? We certainly know there are zero violations at most of these farm sites—they've never been inspected.

Please support Senate Bill 464 and give all citizens equal protection under law.

Thank you for the opportunity to share these comments and concerns.

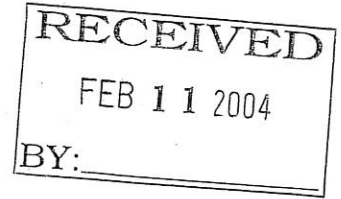
COPY

FARMWAY CO-OP INC.

785-738-2241

204 EAST COURT, P.O. BOX 568, BELOIT, KANSAS 67420-0568

www.farmwaycoop.com



Date: February 10, 2004

To: Senator Derek Schmidt
State Capitol
Room 143-N
Topeka, Kansas 66612

From: Frank Shelton
Crop Production Business Manager
Farmway Coop, Inc.
P.O. Box 568
Beloit, KS 67420

Re: Support for Senate Bill 464

I appreciate the opportunity to submit comments in support of Senate Bill 464. Farmway Coop, Inc. has proudly served the agricultural producers in North central Kansas for the past ninety-three (93) years by providing the best crop production inputs and agronomic services possible. We have and continue to make considerable investments in environmental containment structures and educational training for our employees to ensure we protect the environment. We also pay significant premiums for commercial liability insurance to ensure that while we are providing crop production services to Kansas farmers, we are also taking the necessary precautions to protect our customers and any other party we may unintentionally impact.

Unfortunately, there is a growing trend in North Central Kansas toward widespread ownership of commercial type fertilizer and ag-chemical application equipment by agricultural producers. This trend toward producer ownership of large equipment has also led to a significant increase of unlawful commercial business activity that appears to be going unnoticed by the Kansas Department of Agriculture (KDA). KDA is the state agency that regularly physically inspects our facility to ensure we are complying with all the laws and regulations that apply to the storage, transportation and application of fertilizers and ag-chemicals.

I am aware of at least fifty (50) owners of large, commercial-type application equipment, both liquid and dry, in our trade territory and also know that many of these large applicators are supported by farmer-owned bulk fertilizer and/or ag-chemical storage. Unfortunately, we do not see the same scrutiny being focused on these operations by KDA as is applied to our operation. Additionally, I am also well aware that some of the owner/operators (most of which do not

FARMWAY CO-OP INC.

785-738-2241

204 EAST COURT, P.O. BOX 568, BELOIT, KANSAS 67420-0568

www.farmwaycoop.com

maintain a pesticide business license) of this equipment are performing custom application work for nearby farmers. Performing custom application of pesticides for compensation without a business license is clearly illegal, but once again we fail to see action by KDA to address this growing problem.

It is my understanding that Senate Bill 464 will require all owners of self-propelled fertilizer and pesticide application equipment with a capacity of greater than 200 gallons to be registered with the KDA. I believe the adoption of this legislation will be a positive first step that will enable KDA to identify and educate all owners of large application equipment that there are laws and rules in place that apply to them as owners of large application equipment.

Thank you for the opportunity to share these comments and concerns.

Sincerely,



Frank Shelton



P O BOX 183
LIBERTY KS 67351

LIBERTY 620-485-3215
FAX 620-485-3216

To: Derek Schmidt & Members of the Senate Agriculture Committee

From: Kurt Swearingen, SEK GRAIN INC

Re: Support for Senate Bill 464

I appreciate the opportunity to submit comments in support of Senate Bill 464. SEK GRAIN INC has proudly served the agricultural producers in southeast Kansas for the past 26 years by providing the best crop production inputs and agronomic services possible. We have and continue to make considerable investments in environmental containment structures and educational training for our employees to ensure we protect the environment. We also pay significant premiums for commercial liability insurance to ensure that while we are providing crop production services to Kansas farmers, we are also taking the necessary precautions to protect our customers and any other party we may unintentionally impact.

Unfortunately, there is a growing trend in southeast Kansas toward widespread ownership of commercial type fertilizer and ag-chemical application equipment by agricultural producers. This trend toward producer ownership of large equipment has also led to a significant increase of unlawful commercial business activity that appears to be going unnoticed by the Kansas Department of Agriculture (KDA). KDA is the state agency that regularly physically inspects our facility to ensure we are complying with all the laws and regulations that apply to the storage, transportation and application of fertilizers and ag-chemicals.

I am aware of at least **ten** owners of large, commercial-type application equipment in our trade territory and also know that several of these large applicators are supported by farmer-owned bulk fertilizer and/or truck tankers that run on farm tags to the Coffeyville refinery to pick up liquid fertilizer direct. Unfortunately, we do not see the same scrutiny being focused on these operations by KDA as is applied to our operation. Additionally, I am also well aware that some of the owner/operators (most of which do not maintain a pesticide business license) of this equipment are performing custom application work for nearby farmers. Performing custom application of pesticides for compensation without a business license is clearly illegal, but once again we fail to see action by KDA to address this growing problem.

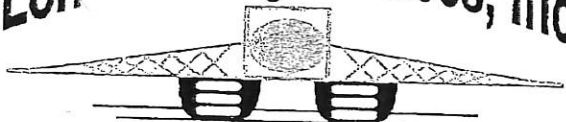
It is my understanding that Senate Bill 464 will require all owners of self-propelled fertilizer and pesticide application equipment with a capacity of greater than 250 gallons to be registered with the KDA. I believe the adoption of this legislation will be a positive first step that will enable

KDA to identify and educate all owners of large application equipment that there are laws and rules in place that apply to them as owners of large application equipment.

I do not know where the KDA will find funding to enforce this law. I do know that SEK GRAIN INC cannot compete with these outlaw operators and make large enough margins to continue to keep our facility in compliance.

Thank you for the opportunity to share these comments and concerns.

Lone Pine Ag-Services, Inc



Excellence in Ag

1557 E 100 Rd

Lecompton, Kansas 66050

Phone: 785-887-6559

Fax: 785-887-6673

E-mail: lonepine@direcway.com

February 12, 2004

Members of the Senate Agriculture Committee

To whom it may concern:

Lone Pine Ag-Services in showing an interest in Senate Bill 464. As you are aware, this bill is intended to require all owners of self-propelled fertilizer and ag-chemical application equipment with a capacity of 250 gallons or greater to register their applicators with the Kansas Department of Agriculture. As a Kansas agri-business retailer, we have seen a growing trend in the numbers of farmer ownership of commercial type application equipment. There are several reasons of concerns for us as a business, to see this trend. The problem is not the farmer operator tending to his own land, but rather when that farmer provides custom application services for his neighbors for compensation.

The concerns of this practice reach many aspects. First, in order to abide by the law and apply custom application of fertilizers and ag-chemicals on a commercial basis, a person or someone in their business must hold a valid Commercial Pesticide Applicator License. The majority of the farmer-owners will only hold a Private Applicators License, thus not legally entitling them to provide custom work for neighbor farmers. There are many rules and regulations governing the application of fertilizers and ag-chemicals. These rules even pertain to the simplest of situations such as spraying in certain wind conditions and recording all environmental conditions. Lone Pine Ag-Services has invested thousands of dollars attending schools and workshops to stay abreast of the ever changing regulations pertaining to custom application. We are also required by law to hold all records pertaining to fertilizer and ag-chemical applications for 5 years. As a registered commercial applicator business, we subject ourselves to yearly and otherwise random state inspections of our records to ensure that we are complying. The increased work load in the office as a result of complying with these regulations also is a very costly. This makes it an unfair advantage to the farmer-owner when the KDA is not enforcing the same laws to the farmer-operator and they remain in non-compliance.

Secondly, going hand in hand with custom application is bulk storage and containment of these fertilizers and ag-chemicals. Many of these same farmer-owners of large equipment also receive shipments of bulk fertilizers and ag-chemical products. This is another area where there are numerous and sometimes very specific rules and regulations governing the storage and containment of these products. We have worked with the state to very carefully develop and install storage and containment facilities to safely handle these products. We are inspected yearly by the state to make sure we are in compliance. This is another area of major financial cost, building and maintaining these facilities as required by state laws and statutes. The majority of the farmer-producers do not have the facilities to adequately and safely handle and contain the products they custom apply. Once again, this makes it an unfair advantage when they are not required to maintain the same storage and containment facilities that we are required to rigidly adhere to.

The last issue of importance would have to do with the insurance end of custom application. We are required to carry liability insurance on our custom application business. Obviously, the reasons for this would be to protect our enterprise, but more importantly to protect the general public should a problem arise. Companies carrying this type of insurance are far and few between anymore and the cost of adequate coverage is astronomical. However, we are obliged by the law and by our own personal interest for us and the community to maintain this insurance coverage. Farmer-operators are not insured to provide custom applications, and therefore serious consequences would arise if they were to experience a mis-application or have a product spill.

● Page 2

February 12, 2004

It is not our intention to single out farmer producers and attempt to drive them out of business. It is these same farmer producers who are our lifelong neighbors and sometimes utilize our business products on their farms. Our support of S.B. 464 is for the KDA to require registration of these applicators in the state of Kansas so that the KDA will have documentation of where these rigs are and can then begin the procedure of inspecting these owners and determine if they are simply using them for their own farming practices or doing custom work. If they are found to be involved in custom application, it would be our intent then for the KDA to enforce the same laws and regulations that we have had to spend our time and money investing in.

The overall benefits for this across the board compliance would have several advantages; some obvious and some not. The obvious for us would be to level the playing field so that no one has an "unlawful" advantage in the custom application field. The licensing, record keeping and storage and containment laws are in place for a reason. We are in an era where society is panicky and uninformed about modern farming practices. These laws are designed for the safe handling, storage, containment and application of fertilizer and ag-chemicals. This is for the benefit of both our environment and the community. Lone Pine Ag-Services has taken pride in being a leader in the custom application field. It is in the best interest of everyone we come in contact with to have a knowledgeable and understanding staff in dealing with the correct and safe and lawful handling of our products.

Please feel free to contact us with any questions.

Thank you for your time!

Sincerely,



Kevin R. Kirkwood
Spray Technician and Certified Crop Advisor
kwoodkatfish@hotmail.com



David Wulfkuhle
Vice-President and Certified Crop Advisor
dwulfkuhle@hotmail.com



LARRY M. YOST, Chairperson • LYNN D. COOPER, Secretary • DELL C. PRINC, General Manager
ARNIE LONG, Ass't General Manager

403 North First P.O. Box 40
(785) 346-5451 FAX (785) 346-2927
Osborne, Kansas 67473

February 16, 2004

Senate Agriculture Committee:

Midway Co-op wishes to encourage all of the Senate Agricultural Committee to support Senate Bill 464. Many producers in the North Central Kansas area have purchased commercial-type application equipment in an effort to streamline their farming operation. We have no opposition to the producers desire to own this equipment but we are very concerned about the impact this could have on the areas natural resources. All of the dealerships in this area have made the effort to provide proper fertilizer and chemical containments and they utilize loading pads for application purposes. Many non-licensed applicators that have no containment and no loading facility are now operating and the laws and regulations of the Kansas State Board of Agriculture are being circumvented. We believe all owners of commercial-type custom application equipment should be registered, licensed and subject to the same laws and regulations as the current business owners are.

Sincerely,

MIDWAY CO-OP, INC.

Arnie Long
Assistant General Manager

ELEVATORS

- ALTON
- BELLAIRE
- BLOOMINGTON
- BURR OAK
- CORINTH
- DOWNIS
- LEBANON
- LURAY
- MANKATO
- OSBORNE
- PORTIS
- WALDO

FEED MILL
OSBORNE

BULK FUEL PLANTS

- LEBANON
- LURAY
- MANKATO
- OSBORNE

SERVICE STATIONS

- LEBANON
- LURAY
- MANKATO
- OSBORNE

L.P. GAS

- LEBANON
- LURAY
- MANKATO
- OSBORNE

SEED CLEANING PLANT

- PORTIS

February 12, 2004

Oberlin Fertilizer Inc.
RR 3 Box 2BB
Oberlin KS 67749

Senate Agriculture Committee
Topeka KS

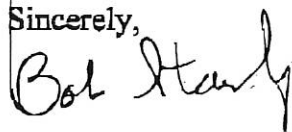
Dear Members of the Senate Agriculture Committee,

It has come to our attention that you are considering Senate Bill 464. We, as an agribusiness in Kansas, are in support of Senate Bill 464. We believe that all self-propelled fertilizer and ag-chemical application equipment with a capacity of 200 gallons or more need to register their applicators with the Kansas Department of Agriculture.

We have suffered economic losses because of the unfair advantage these unregistered applicators have caused. We have lost 50,000 acres of custom application revenue plus product sales. We have to maintain strict standards and are subject to inspections because we are a commercial business. The farmer-producers should have to adhere to the same laws. These precautions and regulations cost money to enforce and maintain. We are asking your support to level the business field by passing Senate Bill 464. This hasn't even touched on our environmental concerns of farmer-producers application and storage equipment. We are trained for accidental spills and containment issues. Many of the private applicators don't even have containment let alone training for accidental spills. It is our belief this Senate Bill 464 will start to address these issue.

We appreciate your time and support to help maintain safe, profitable agri-business in Kansas.

Sincerely,



Bob Stanley
Manager

BS/sl



MID - WEST FERTILIZER, INC.

PHONE 913-294-5555
FAX 913-294-4156

P.O. BOX 188

PAOLA, KS 66071

To: Members of the Senate Agriculture Committee

From: Ken Novak Mid-West Fertilizer

Re: Support for Senate Bill 464

I appreciate the opportunity to submit comments in support of Senate Bill 464. Mid-West Fertilizer has proudly served the agricultural producers in Southeastern Ks. and Western Missouri for the past 20 years by providing the best crop production inputs and agronomic services possible. We have and continue to make considerable investments in environmental containment structures and educational training for our employees to ensure we protect the environment. We also pay significant premiums for commercial liability insurance to ensure that while we are providing crop production services to Kansas farmers, we are also taking the necessary precautions to protect our customers and any other party we may unintentionally impact.

Unfortunately, there is a growing trend in Eastern Kansas toward widespread ownership of commercial type fertilizer and ag-chemical application equipment by agricultural producers. This trend toward producer ownership of large equipment has also led to a significant increase of unlawful commercial business activity that appears to be going unnoticed by the Kansas Department of Agriculture (KDA). KDA is the state agency that regularly physically inspects our facility to ensure we are complying with all the laws and regulations that apply to the storage, transportation and application of fertilizers and ag-chemicals.

I am aware of at least 11 owners of large, commercial-type application equipment in our trade territory and also know that many of these large applicators are supported by farmer-owned bulk fertilizer and/or ag-chemical storage. Unfortunately, we do not see the same scrutiny being focused on these operations by KDA as is applied to our operation. Additionally, I am also well aware that some of the owner/operators (most of which do not maintain a pesticide business license) of this equipment are performing custom application work for nearby farmers. Performing custom application of pesticides for compensation without a business license is clearly illegal, but once again we fail to see action by KDA to address this growing problem.

It is my understanding that Senate Bill 464 will require all owners of self-propelled fertilizer and pesticide application equipment with a capacity of greater than 200 gallons to be registered with the KDA. I believe the adoption of this legislation will be a positive first step that will enable KDA to identify and educate all owners of large application equipment that there are laws and rules in place that apply to them as owners of large application equipment.

Thank you for the opportunity to share these comments and concerns.

GREAT BEND CO-OP



The Great Bend Cooperative Association

Business Office
P.O. Box 68
Great Bend, KS 67530
Telephone: (620) 793-3531
Fax: (620) 792-1999

To: Members of the Senate Agriculture Committee

From: Great Bend Cooperative Association

RE: Support for Senate Bill 464


I appreciate the opportunity to submit comments in support of Senate Bill 464. The Great Bend Cooperative Association has proudly served agricultural producers in Central Kansas for the past 45 years by providing the best crop production inputs and agronomic services possible. We have made and continue to make considerable investments in environmental containment structures and educational training to our employees to ensure we protect the environment. We also pay significant premiums for commercial liability insurance to ensure that while we are providing crop production services to Kansas farmers, we are also taking the necessary precautions to protect our customers and any other party we may unintentionally impact.

Unfortunately, there is a growing trend in Central Kansas toward widespread ownership of commercial type fertilizer and ag-chemical application equipment by agricultural producers. This trend toward producer ownership of large equipment has also led to a significant increase of unlawful commercial business activity that appears to be going unnoticed by the Kansas Department of Agriculture (KDA). KDA is the state agency that regularly physically inspects our facilities to ensure we are complying with all the laws and regulations that apply to the storage, transportation, and application of fertilizer and ag-chemicals.

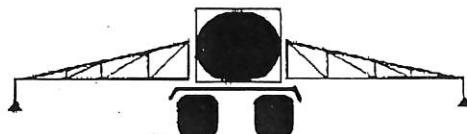
I am aware of at least six (6) owners of large commercial-type application equipment in our trade territory and also know that many of these large applicators are supported by farmer-owned bulk fertilizer and/or ag-chemical storage. Unfortunately, we do not see the same scrutiny being focused on these operations by KDA as is applied to our operation. Additionally, I'm also well aware that some of the owner-operators (most of which do not maintain a pesticide business license) of this equipment are performing custom application work for nearby farmers. Performing custom application for pesticides for compensation without a business license is clearly illegal, but once again we fail to see action by KDA to address this growing problem.

It is my understanding that Senate Bill 464 will require all owners of self propelled fertilizer and pesticide application equipment with a capacity of greater than 250 gallons to be registered with the KDA. I believe the adoption of this legislation will be a positive first step that will enable KDA to identify and educate all owners of large application equipment that there are laws and rules in place that apply to them as owners of large application equipment.

Thank you, for the opportunity to share these comments and concerns.

Sincerely:

Dennis D. Neeland
Operations Manager

Harveyville Seed Company, Inc.



P.O. Box 8
Harveyville, KS 66431

785-589-2497
Fax 785-589-2486

February 10, 2004

To: Members of the Senate Agriculture Committee
From: Dustin Kuntz, Harveyville Seed Co., Inc.
Re: Support for Senate Bill 464

Thank you for the opportunity to submit comments in support of Senate Bill 464. Harveyville Seed Co. has proudly served the agricultural producers in Eastern Kansas for over 47 years. Like many of the farmers we serve, we are a family business. We pride ourselves on providing the best crop production inputs and agronomic services possible. Half of our "in the field" employees are Certified Crop Advisors, and all are certified with the State of Kansas to apply pesticides and fertilizer. We have made and continue to make considerable investments in environmental containment structures, and provide safety and educational training for our employees to ensure we protect the environment. We also pay significant premiums for commercial liability insurance to ensure that while we are providing crop production services to Kansas farmers, we are also taking the necessary precautions to protect our customers and any other party we may unintentionally impact.

There is a growing trend in Eastern Kansas toward widespread ownership of commercial type fertilizer and ag-chemical application equipment by agricultural producers. Unfortunately, this trend toward producer ownership of large equipment has also led to a significant increase of unlawful commercial business activity that appears to be going unnoticed by the Kansas Department of Agriculture (KDA). KDA is the state agency that regularly physically inspects our facility to ensure we are complying with all the laws and regulations that apply to the storage, transportation, and application of fertilizers and ag-chemicals.

In our trade territory I am aware of at least twenty-two producers that own large, commercial-type application equipment many of these large producers also have bulk fertilizer and/or ag-chemical storage. Unfortunately, KDA is not able to focus the same scrutiny on these operations as is applied to our operation. Additionally, I am also well aware that some of the owner/operators of this equipment, who are performing custom application work for nearby farmers under the guise of "trading labor", do not maintain a pesticide business license or liability insurance. Performing custom application of pesticides for compensation without a business license is clearly illegal.

Senate Bill 464 will require all owners of self-propelled fertilizer and pesticide application equipment with a capacity of greater than 200 gallons to be registered with the KDA. I am not asking that my customers quit using their application equipment, only that they be registered. If all owners of commercial-type application equipment adhere to the same rules and regulations, we will help ensure public health and safety of all Kansans. I believe the adoption of this legislation will be a positive first step that will enable KDA to identify, and educate all owners of large application equipment that there are laws and rules in place ensuring safe application of fertilizer and pesticide.

Thank you for the opportunity to share these comments and concerns.

A handwritten signature in black ink that reads "Dustin Kuntz". The signature is written in a cursive, flowing style.

Dustin Kuntz
Vice-President



To: Members of the Senate Agriculture Committee

From: Kevin Kelly, GM, Two Rivers Coop

Re: Support for Senate Bill 464

I appreciate the opportunity to submit comments in support of Senate Bill 464. Two Rivers Coop has proudly served the agricultural producers in South Central Kansas for the past 54 years by providing the best crop production inputs and agronomic services possible. We have and continue to make considerable investments in environmental containment structures and educational training for our employees to ensure we protect the environment. We also pay significant premiums for commercial liability insurance to ensure that while we are providing crop production services to Kansas farmers, we are also taking the necessary precautions to protect our customers and any other party we may unintentionally impact.

Unfortunately, there is a growing trend in South Central Kansas toward widespread ownership of commercial type fertilizer and ag-chemical application equipment by agricultural producers. This trend toward producer ownership of large equipment has also led to a significant increase of unlawful commercial business activity that appears to be going unnoticed by the Kansas Department of Agriculture (KDA). KDA is the state agency that regularly physically inspects our facility to ensure we are complying with all the laws and regulations that apply to the storage, transportation and application of fertilizers and ag-chemicals.

I am aware of at least 20 owners of large, commercial-type application equipment in our trade territory and also know that many of these large applicators are supported by farmer-owned bulk fertilizer and/or ag-chemical storage. Unfortunately, we do not see the same scrutiny being focused on these operations by KDA as is applied to our operation. Additionally, I am also well aware that some of the owner/operators (most of which do not maintain a pesticide business license) of this equipment are performing custom application work for nearby farmers. Performing custom application of pesticides for compensation without a business license is clearly illegal, but once again we fail to see action by KDA to address this growing problem.

It is my understanding that Senate Bill 464 will require all owners of self-propelled fertilizer and pesticide application equipment with a capacity of greater than 200 gallons to be registered with the KDA. I believe the adoption of this legislation will be a positive first step that will enable KDA to identify and educate all owners of large application equipment that there are laws and rules in place that apply to them as owners of large application equipment.

Thank you for the opportunity to share these comments and concerns.

P.O. BOX 1087

ARKANSAS CITY, KANSAS 67005

PHONE (620) 442-2360

Turon Mill & Elevator, Inc.

*P.O. Box 68
Turon, Ks 67583*

Phone 620-497-6417

Fax 620-497-6517

Members of the Senate Agriculture Committee

From: Ed Marlow, Turon Mill & Elevator

Re: Support for Senate Bill 464

I appreciate the opportunity to submit comments in support of Senate Bill 464. Turon Mill & Elevator has proudly served the agricultural producers in South Central Kansas for the past 30 years by providing the best crop production inputs and agronomic services possible. We have and continue to make considerable investments in environmental containment structures and educational training for our employees to ensure we protect the environment. We also pay significant premiums for commercial liability insurance to ensure that while we are providing crop production services to be Kansas farmers, we are also taking the necessary precautions to protect our customers and any other party we may unintentionally impact.

Unfortunately, there is a growing trend in South Central Kansas toward widespread ownership of commercial type fertilizer and ag-chemical application equipment by agricultural producers. This trend toward producer ownership of large equipment has also led to a significant increase of unlawful commercial business activity that appears to be going unnoticed by the Kansas Department of Agriculture (KDA). KDA is the state agency that regularly physically inspects our facility to ensure we are complying with all the laws and regulations that apply to the storage, transportation and application of fertilizers and ag-chemicals.

I am aware of at least 3 owners of large, commercial-type application equipment in our trade territory and also know that some of these large applicators are supported by farmer-owned bulk fertilizer and or ag-chemical storage. Unfortunately, we do not see the same scrutiny being focused on these operations by KDA as is applied to our operation. Additionally, I am also well aware that some of the owner /operators (most of which do not maintain a pesticide business license) of this equipment are performing custom application work for nearby farmers. Performing custom application of pesticides for compensation without a business license is clearly illegal, but once again we fail to see action by KDA to address this growing problem.

It is my understanding that Senate Bill 464 will require all owners of self-propelled fertilizer and pesticide application equipment with a capacity of greater than 200 gallons to be registered with the KDA. I believe the adoption of this legislation will be a positive first step that will enable KDA to identify and educate all owners of large application equipment that there are laws and rules in place that apply to them as owners of large application equipment.

Thank you for the opportunity to share these comments and concerns.

Ed Marlow

**FARMERS COOPERATIVE ASSOCIATION**P.O. BOX 1045 - 3384 EXCEL ROAD
MANHATTAN, KANSAS 66505

PHONE: 785-776-9467

FAX: 785-776-9893

MANHATTAN
ALTA VISTA
DWIGHT
ONAGA
WESTMORELAND

To: Members of the Senate Agriculture Committee

From: Steve Peterson, CEO
Farmers Cooperative Association, Manhattan, Kansas

Re: Support for Senate Bill 464

I appreciate the opportunity to submit comments in support of Senate Bill 464. Farmers Cooperative Association has proudly served the agricultural producers in Northeastern Kansas for the past 70+ years by providing the best crop production inputs and agronomic services possible. We have and continue to make considerable investments in environmental containment structures and educational training for our employees to ensure we protect the environment. We also pay significant premiums for commercial liability insurance to ensure that while we are providing crop production services to Kansas farmers, we are also taking the necessary precautions to protect our customers and any other party we may unintentionally impact.

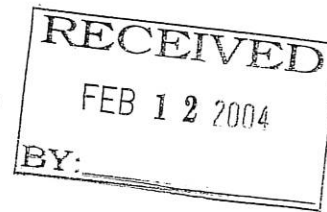
Unfortunately, there is a growing trend in Northeastern Kansas toward widespread ownership of commercial type fertilizer and ag-chemical application equipment by agricultural producers. This trend toward producer ownership of large equipment has also led to a significant increase of unlawful commercial business activity that appears to be going unnoticed by the Kansas Department of Agriculture (KDA). KDA is the state agency that regularly physically inspects our facility to ensure we are complying with all the laws and regulations that apply to the storage, transportation and application of fertilizers and ag-chemicals.

I am aware of at least 12 owners of large, commercial-type application equipment in our trade territory and also know that many of these large applicators are supported by farmer-owned bulk fertilizer and/or ag-chemical storage. Unfortunately, we do not see the same scrutiny being focused on these operations by KDA as is applied to our operation. Additionally, I am also well aware that some of the owner/operators (most of which do not maintain a pesticide business license) of this equipment are performing custom application work for nearby farmers. Performing custom application of pesticides for compensation without a business license is clearly illegal, but once again we fail to see action by KDA to address this growing problem.

It is my understanding that Senate Bill 464 will require all owners of self-propelled fertilizer and pesticide application equipment with a capacity of greater than 200 gallons to be registered with the KDA. I believe the adoption of this legislation will be a positive first step that will enable KDA to identify and educate all owners of large application equipment that there are laws and rules in place that apply to them as owners of large application equipment.

Thank you for the opportunity to share these comments and concerns.

Arnold
Laird
Ness City
Wright



Kalvesta
Mullinville
Spearville
Wilroads

"Exceeding Our Customers' Expectations"

To: Members of the Senate Agriculture Committee
From: **Right Cooperative Association**
Re: Support for Senate Bill 464

I appreciate the opportunity to submit comments in support of Senate Bill 464. Right Cooperative Association has proudly served the agricultural producers in Southwest Kansas for the past 89 years by providing the best crop production inputs and agronomic services possible. We have and continue to make considerable investments in environmental containment structures and educational training for our employees to ensure we protect the environment. We also pay significant premiums for commercial liability insurance to ensure that while we are providing crop production services to Kansas farmers, we are also taking the necessary precautions to protect our customers and any other party we may unintentionally impact.

Unfortunately, there is a growing trend in Southwest Kansas toward widespread ownership of commercial type fertilizer and ag-chemical application equipment by agricultural producers. This trend toward producer ownership of large equipment has also led to a significant increase of unlawful commercial business activity that appears to be going unnoticed by the Kansas Department of Agriculture (KDA). KDA is the state agency that regularly physically inspects our facility to ensure we are complying with all the laws and regulations that apply to the storage, transportation and application of fertilizers and ag-chemicals.

In our Ness County trade area, about one third of the area we serve, we are aware of at least 19 owners of large, commercial-type application equipment. Only three of these have applicator licenses and insurance. And, only two of those three have either fertilizer or pesticide containment. Unfortunately, we do not see the same scrutiny being focused on these operations by KDA as is applied to our operation. Additionally, we have also substantiated that all of these owner/operators (only two of which maintain a pesticide business license) of this equipment are performing custom application work for nearby farmers for hire and/or barter. Performing custom application of pesticides for compensation without a business license is clearly illegal, but once again we fail to see action by KDA to address this growing problem.

It is my understanding that Senate Bill 464 will require all owners of self-propelled fertilizer and pesticide application equipment with a capacity of greater than 200 gallons to be registered with the KDA. I believe the adoption of this legislation will be a positive first step that will enable KDA to identify and educate all owners of large application equipment that there are laws and rules in place that apply to them as owners of large application equipment.

Thank you for the opportunity to share these comments and concerns.

A handwritten signature in black ink, appearing to read 'Thomas F. Redman', written over a light blue grid background.

Thomas F. Redman
General Manager

To: Members of the Senate Agriculture Committee

From: Kanza Coop- Zenith Branch

Re: Support of Senate Bill 464

I support this legislation because of the large investment that Kanza Coop has made in the environmental containment facility that we purchased some 8 years ago. Being a rather large cooperative, 5 different branches made this commitment, so we could continue to serve our patrons.

At a cost of a million dollars company wide, we felt to protect our environment in this way was well worth the expense. Our trade territory covers much of south central Kansas, with many lakes and streams in our service area. No one has made the effort to police themselves like Kansas cooperatives across this state. Inspectors come to our place of business regularly to inspect the facilities and make sure they are in top condition. We train our employees, and are required to keep our commercial applicators certified.

With the competitiveness in this business and margins going down, to have farmers come in and take away business without having the investment we've made is most disturbing. Small towns are drying up, and if they lose there cooperatives, it is all but over. I feel that this legislation is just another step that cooperatives are willing to take to ensure we stay on top of the custom application business.

Thank you, Lawrence Eisenhour- Branch Manager, Kanza Coop



Wallace County Cooperative Equity Exchange

P.O. Box 280 102 North Front
Sharon Springs, KS 67758

www.wallacecountycoop.com

Sharon Springs Main Office: (785) 241
Main Office Fax: (785) 852-4286
Sharon Springs Station: (888) 852-4279
Wallace, KS: (785) 891-3535
Weskan, KS: (785) 943-5422
McAllaster, KS: (785) 846-7890
Arapahoe, CO: (719) 767-5508

Toll Free: (866) 852-4241

To: Members of the Senate Agriculture Committee
From: Larry McDaniel, Wallace County Coop
Re: Support for Senate Bill 464

I appreciate the opportunity to submit comments in support of Senate Bill 464. Wallace County Coop has proudly served the agricultural producers in Northwest Kansas for the past 55 years by providing the best crop production inputs and agronomic services possible. We have and continue to make considerable investments in environmental containment structures and education training for our employees to ensure we protect the environment. We also pay significant premiums for commercial liability insurance to ensure that while we are providing crop production services to Kansas farmers, we are also taking the necessary precautions to protect our customers and other party we may unintentionally impact.

Unfortunately, there is a growing trend in Kansas toward widespread ownership of commercial type fertilizer and ag-chemical application equipment by agricultural producers. The trend toward producer ownership of large equipment has also led to a significant increase of unlawful commercial business activity that appears to be going unnoticed by the Kansas Department of Agriculture (KDA). KDA is the state agency that regularly physically inspects our facility to ensure we are complying with all the laws and regulations that apply to the storage, transportation and application of fertilizers and ag-chemicals.

I am aware of at least 10 owners of large, commercial-type application equipment in our trade territory and also know that farmer-owned bulk fertilizer and/or ag-chemical storage support many of these large applicators. Unfortunately, we do not see the same scrutiny being focused on these operations by KDA as is applied to our operation. Additionally, I am also well aware that some of the owner/operations (most of which do not maintain a pesticide business license) of this equipment are performing custom application work for nearby farmers. Performing custom application of pesticides for compensation without a business license is clearly illegal, but once again we fail to see action by KDA to address this growing problem.

It is my understanding that Senate Bill 464 will require all owners of self-propelled fertilizer and pesticide application equipment with a capacity of greater than 250 gallons to be registered with the KDA. I believe the adoption of this legislation will be a positive first step that will enable KDA to identify and educate all owners of large application equipment that there are laws and rules in place that apply to them as owners of large application equipment.

Thank you for the opportunity to share these comments and concerns.

Larry McDaniel
Agronomy Manager

Crop Service Center

INCORPORATED

Salina Location
5869 S. Old Hwy 81
Assaria, KS 67416
785-667-2767
Fax 785-667-4374

Main Office
1123 Eden Road (Located at Holland, KS)
Abilene, KS 67410
785-479-2204
Fax 785-479-2205

Beverly Location
200 W. Railroad
Beverly, KS 67423
785-436-2401
Fax 785-436-2234

Date: February 11, 2004
To: Members of the Senate Agriculture Committee
From: Dale C. Koop, Co-owner/Manager, Crop Service Center, Inc.
Re: Support for Senate Bill 464

I appreciate the opportunity to submit comments in support of Senate Bill 464. Crop Service Center, Inc. has served the agricultural producers in Northeast Central Kansas for the past 20 years by providing the best crop production inputs and agronomic services possible. We have and will continue to make considerable investments in environmental containment structures and educational training for our employees to ensure we protect the environment. Our business pays significant premiums for commercial liability insurance to ensure that while we are providing crop production services to our area farmers, we are also taking the necessary precautions to protect our customers and any other party we may unintentionally impact.

Unfortunately, we've noticed a growing trend in Dickinson County and the surrounding counties toward widespread ownership of commercial-type fertilizer and ag-chemical application equipment by agricultural producers. This trend toward producer ownership of large equipment has also led to a significant increase of unlawful commercial business activity that appears to be going unnoticed by the Kansas Department of Agriculture (KDA). KDA is the state agency that regularly physically inspects our facility to ensure we are complying with all the laws and regulations that apply to the storage, transportation and application of fertilizers and ag-chemicals.

I am aware of at least 15 owners of large, commercial-type application equipment in our trade territory and also know that many of these large applicators are supported by farmer-owned bulk fertilizer and/or ag-chemical storage. However, we do not see the same scrutiny being focused on these operations by KDA as is applied to our operation. Additionally, I am also aware that some of the owner/operators (most of which do not maintain a pesticide business license) of this equipment are performing custom application work for nearby farmers. Performing custom application of pesticides for compensation without a business license is clearly illegal. Once again, we fail to see action by the KDA in addressing this growing problem.

It is my understanding that Senate Bill 464 will require all owners of self-propelled fertilizer and pesticide application equipment with a capacity of greater than 200 gallons to be registered with the KDA. I believe the adoption of this legislation will be a positive first step that will enable KDA to identify and educate all owners of large application equipment.

Thank you for the opportunity to share these comments and concerns.

Cropland Co-op, Inc.

To Be The Business of Choice

Through Excelling Performance

To Achieve Customer Satisfaction

To: Members of the Senate Agriculture Committee
From: Jeff Huggard and Greg Duncan, Cropland Coop, Inc.
Re: Support for Senate Bill 464

We would like to thank you for the opportunity to submit our comments in support of Senate Bill 464. We at the Cropland Coop, Inc. have proudly served our producers in Southwest Kansas for the past several decades. Our trade territory covers all or part of the following counties: Wichita, Hamilton, Kearny, Finney, Stanton, Grant, Haskell, and Stevens. It has been our commitment to provide the best crop production and agronomic service to our producers as possible. We have done this without compromising on our commitment to customer, employee and environmental safety. We have spent, and continue to spend, considerable monies for proper containment of our products and training of our employees to ensure their safety and that of our communities and environment. We also pay significant premiums for our liability insurance in the event that we would unintentionally impact another party.

Unfortunately, we have noticed an alarming trend in southwest Kansas toward producer owned and operated commercial type fertilizer and chemical application equipment. Most of these new "commercial" applicators are operating outside of the same laws and regulations that our company takes pride in adhering to. It appears that these applicators are going unnoticed by the Kansas Department of Agriculture (KDA). KDA is the state agency that regularly inspects our facilities to make certain that we are up to date and in compliance with all the laws and regulations that apply to the storage, transportation, and application of fertilizers and ag-chemicals.

Our problem is that, company wide, for every one chemical or fertilizer application rig that we have, we can count about nine other rigs that are being operated outside the governance of KDA. Many of these farmer owned application rigs are supported by bulk fertilizer or chemical storage facilities that are also not in compliance with current laws and regulations. Unfortunately, we have not seen the same enforcement and regulation of these individuals as we have seen from KDA on our industry. We are also aware that many of these individuals do not operate under a pesticide business license and are performing custom work for compensation. This is clearly illegal. However, we have failed to see any action by KDA to address these growing problems.

As we understand it, Senate Bill 464 will require all owners of self-propelled fertilizer and pesticide application equipment with a capacity of greater than 200 gallons to be registered with the KDA. We believe that this legislation would enable KDA to identify all owners of these application rigs and to educate them on the laws that currently regulate our industry. It would allow KDA to enforce these regulations and guidelines on producer-owners as stringently as they enforce them on the companies currently abiding by them.

Thank you for the opportunity to share these comments and concerns with you.

THE BUSINESS OF CHOICE

NORTH
CENTRAL
KANSAS



COOPERATIVE

Phone 785-366-7213 • P.O. Box 157 • Hope, KS 67451-0157

Branches: Hope • Dillon • Navarre • Woodbine

Dear Senate Agriculture Committee,

Each year we are faced with increased fixed cost that are associated with applying pesticides. I fully understand the need for compliance, but that is for private applicators as well as commercial applicators. If the state does not crack down, what is going to stop the trend of more commercial type sprayers being purchased.

Our association is located in the central part of the state which is very diverse, so the adoption is a little slower. The applicators not being licensed is not the worst of it, what about the non-contained facilities they load at.

Please force all of us to be on the same playing field.

Sincerely,

Kevin Whitehair



GENERAL OFFICE 1916 E. 9th — P.O. Box 536, Winfield, KS 67156 — PHONE 620-221-4343

• WINFIELD • KELLOGG • HACKNEY • ATLANTA • NEW SALEM • BURDEN •

02-12-2004

To: Members of the Senate Agriculture Committee

From: Richard Kimbrel, Valley Coop, Inc.

Re: Support for Senate Bill 464

I appreciate the opportunity to submit comments in support of Senate Bill 464. Valley Coop, Inc has served the agricultural producers of south central Kansas for the past 60 years by providing the best crop production inputs and agronomic service possible. We continue to make considerable investments in environmental containment structures and educational training for our employees to insure we protect the environment. We also pay significant premiums for commercial liability insurance to ensure that while we are providing crop production services to Kansas farmers, we are also taking the necessary precautions to protect our customers and any other party we may unintentionally impact.

Unfortunately there is a growing trend in south central Kansas toward widespread ownership of commercial type fertilizer and ag-chemical application equipment by agricultural producers. This has led to a significant trend of unlawful commercial business activity that appears to be going unnoticed by the Kansas Department of Agriculture (KDA). KDA is the state agency that regularly physically inspects our facility to ensure we are complying with all the laws and regulations that apply to the storage, transportation and application standards for fertilizer and ag-chemicals.

I am aware of at least 2 owners of large, commercial-type application equipment in our trade territory and also know that many of these large applicators are supported by farmer-owned bulk fertilizer and/or ag-chemical storage. Unfortunately we do not see the same scrutiny by KDA of these operations as we do of our own. Custom application of products by these applicators without a business license for neighbors is also happening and is clearly a violation of regulations, but again KDA fails to address the issue.

It is my understanding that Senate Bill 464 will require all owners of self-propelled fertilizer and pesticide application equipment with a capacity of greater than 200 gallons to be registered with KDA. I believe the adoption of this legislation will be a positive first step that will enable KDA to identify and educate all owners of large application equipment that there are laws and rules in place that apply to them as owners of large application equipment.

Thank you for the opportunity to share these comments and concerns on this issue.

Sincerely,

Richard Kimbrel
General Manager
Valley Coop, Inc.



Farmers Coop Grain Association

Senate Agriculture Committee

RE: Senate Bill 464

February 13, 2004

I am writing in support of Senate Bill 464. I hope you will give this bill your support.

The last few years we have seen an increase of ownership of spray application equipment. This includes self propelled rigs and tractor pull type rigs.

I would like to see the farmer applicator rigs be licensed across the state. I know of several custom applications being made in our area without being licensed.

This bill would help to put our business on a level playing field with the non-licensed applicators. I don't think you should just enforce this on self-propelled equipment. I have seen pull type equipment do custom work in our area.

Your support will be appreciated.

Thank you,
Ken Fitzpatrick
Ken Fitzpatrick,
General Manager

To: Members of the Senate Agriculture Committee
From: (David Smith), (Johnson Cooperative Grain Co)
Re: Support for Senate Bill 464

I appreciate the opportunity to submit comments in support of Senate Bill 464. Johnson Cooperative Grain Co has proudly served the agricultural producers in Stanton County Southwest Kansas for the past seventy four years by providing the best crop production inputs and agronomic services possible. We have and continue to make considerable investments in environmental containment structures and educational training for our employees to ensure we protect the environment. We also pay significant premiums for commercial liability insurance to ensure that while we are providing crop production services to Kansas farmers, we are also taking the necessary precautions to protect our customers and any other party we may unintentionally impact.

Unfortunately, there is a growing trend in Stanton County toward widespread ownership of commercial type fertilizer and ag-chemical application equipment by agricultural producers. This trend toward producer ownership of large equipment has also led to a significant increase of unlawful commercial business activity that appears to be going unnoticed by the Kansas Department of Agriculture (KDA). KDA is the state agency that regularly physically inspects our facility to ensure we are complying with all the laws and regulations that apply to the storage, transportation and application of fertilizers and ag-chemicals.

I am aware of at least fifteen owners of large, commercial-type application equipment in our trade territory and also know that many of these large applicators are supported by farmer-owned bulk fertilizer and/or ag-chemical storage. Unfortunately, we do not see the same scrutiny being focused on these operations by KDA as is applied to our operation. Additionally, I am also well aware that some of the owner/operators (most of which do not maintain a pesticide business license) of this equipment are performing custom application work for nearby farmers. Performing custom application of pesticides for compensation without a business license is clearly illegal, but once again we fail to see action by KDA to address this growing problem.

It is my understanding that Senate Bill 464 will require all owners of self-propelled fertilizer and pesticide application equipment with a capacity of greater than 250 gallons to be registered with the KDA. I believe the adoption of this legislation will be a positive first step that will enable KDA to identify and educate all owners of large application equipment that there are laws and rules in place that apply to them as owners of large application equipment.

Thank you for the opportunity to share these comments and concerns.

**JOHNSON COOP
DAVID SMITH
CROP PRODUCTION MANAGER**

3-60



**FARMERS UNION CO-OPERATIVE CO.**

Save, Sure, & Satisfying Service
Dealers in Seed — Food — Fertilizer
Box 423
Spring Hill, Kansas 65083
913-592-2339

February 12, 2004

To: **Members of the Senate Agriculture Committee**

From: **Kenneth Smith, Farmers Union Coop**

Re: **Support for Senate Bill 464**

Thank you for allowing me to submit comments in support of Senate Bill 464. Farmers Union Cooperative has been serving agricultural producers in East Central Kansas for over 80 years with crop production goods and services. We have invested a considerable amount of money, time, and energy into our facilities, equipment, and employees to ensure that our environment is safe today and in the future. We pay substantial premiums for commercial liability insurance, not because Kansas law says we shall, but for the protection of our customers and any other party we may unintentionally impact.

There is a disturbing and growing trend in East Central Kansas for agricultural producers to own and operate commercial type fertilizer and ag-chemical application equipment. The disturbing part is the significant increase in unlawful commercial business being done by these same producers and appears to be going unnoticed by the Kansas Department of Agriculture (KDA). Our facilities are regularly inspected by KDA to ensure we are complying with all laws and regulations that apply to the storage, transportation, and application of fertilizers and ag-chemicals.

My concerns are legitimate and not just a "boo-hoo" for Farmers Union Coop and the other registered commercial fertilizer/ag-chemical dealers in the state. There are at least 3 producers who operate the large, commercial type application equipment in our trade territory and many of these large applicators are supported by farmer-owned bulk fertilizer and/or chemical storage. Also, some of these owner/operators are performing custom application work for neighboring farmers without having a pesticide business license which is illegal. I question whether KDA is accomplishing the intent of the law if they are not scrutinizing these unlicensed operators as they do our operations.

I understand that Senate Bill 464 will require all owners of self-propelled fertilizer and pesticide application equipment with a capacity of greater than 200 gallons to be registered with the KDA. I believe the adoption of this legislation will reinforce current laws and regulations pertaining to the storage, transportation and application of bulk fertilizers and ag-chemicals by enabling KDA to identify and educate all owners of large application equipment that there are laws and rules in place that apply to them.

The opportunity to share these comments and concerns is greatly appreciated.



Kansas Farm Bureau

2627 KFB Plaza, Manhattan, Kansas 66503-8155 • 785.587.6000 • Fax 785.587.6914 • www.kfb.org
800 SW Jackson St., Ste. #1008, Topeka, Kansas 66612 • 785.234.4535 • 785.234.0278

PUBLIC POLICY STATEMENT

Senate Committee on Agriculture

RE: SB 464 – an act concerning pest control and fertilizer; relating to application equipment

**February 17, 2004
Topeka, Kansas**

**Presented by:
Brad Harrelson, Associate State Director
KFB Governmental Relations**

Chairman Schmidt and members of the committee, thank you for the opportunity to provide testimony on Senate Bill 464. I am Brad Harrelson, Associate State Director of Governmental Relations for the Kansas Farm Bureau (KFB). KFB is the state's largest general farm organization and represents more than forty thousand agricultural producer families through the 105 county Farm Bureau Associations across Kansas.

The membership of Kansas Farm Bureau appears today in the strongest opposition possible to SB 464. Proponents of this bill will suggest that this legislation is needed in the name of protecting the environment, and additional enforcement tools are necessary to further regulate operators of application equipment. Ostensibly, this registry would allow for better notification and education of "irresponsible" operators. Furthermore, it has been suggested in other venues by the proponents, that all applicators, including private applicators and individual farmers and ranchers, should be required to maintain the same liability coverage as commercial applicators.

We strongly object to this proposition and suggest there are other motives behind the bill. We believe the true intent of SB 464 has very little to do with further protecting the environment and much more to do with preserving a market. In other words, the requirements of this legislation would place additional burdens

*Senate Agriculture
February 17, 2004
Attachment 4*

on those who choose alternatives to traditional custom application services, thereby restricting competition.

A number of statutory requirements already exist that prescribe who may or may not custom apply agricultural chemicals and what appropriate steps must be taken to do so. Furthermore, recently adopted fertilizer and pesticide containment regulations determine how larger quantities of ag-inputs must be stored on-farm and at commercial locations. We would suggest that these existing requirements already address the concerns expressed by the proponents. Indeed, effective enforcement tools are already established through these statutory and regulatory requirements.

It is our firm belief that the Kansas Department of Agriculture (KDA) has an obligation to inform the regulated community of newly adopted regulations such as the fertilizer and pesticide containment regulations. KDA-sponsored educational programs were offered prior to implementation deadlines. However, opportunities were limited, and we have been told by KDA that the results were less than desired.

That stated, we also believe that industry organizations should share in that responsibility. Kansas Farm Bureau staff and members have personally participated in and contributed to a number of educational forums including workshops, published materials and prominent information placement on our web site. K-State Extension is also engaged in educational efforts, with dedicated program funding for producer outreach on this topic. Therefore, we question the need for a new statutory requirement aimed simply at registering and educating a group of producers.

As the committee reviews the impact of this proposed legislation we would offer the following questions for your consideration:

- Does the KDA already have access to this or a comparable database containing the targeted audience? We are aware that virtually all farms, categorized by size, are currently accessible via mailings through Kansas Ag Statistics.
- Will access to this new database enhance enforcement efforts of KDA and increase compliance? According to KDA, the most effective enforcement tool is investigating complaints, and that is unlikely to change.
- Doesn't the Secretary already have statutory authority to require registration? As such, why has he chosen not to use the authority?
- What will it cost to effectively implement the new law? Has the cost to the producer been considered? Not only are there registration fees, but also there are significant costs associated with the registry and inspection process that would be born by the producer.
- What evidence exists of wide spread environmental impact warranting such further regulation of private applicators and independent producers?

In conclusion, the proposed registry program does nothing to make producers more efficient, nor does it make farming operations more friendly to the environment. Quite the opposite, this bill is a clear attempt to tax independent farmers and add extra, unneeded bureaucracy to an already highly regulated industry.

I encourage this committee to think beyond the fees that this program would generate, and to think about the level of government intervention this bill proposes. This bill would introduce an inappropriate precedent of government oversight that encroaches on an individuals right to have machinery and equipment of their choosing, on private property. Please remember, Kansas is a "Right to Farm" state.

Thank you for the opportunity to appear today. We respectfully urge you to weigh the intended and unintended consequences of the bill and reject SB 464 without favorable action.

SENATE COMMITTEE ON AGRICULTURE

RE: SB 464---AN ACT CONCERNING PEST CONTROL AND FERTILIZER:
RELATING TO APPLICATION EQUIPMENT

February 17, 2004
Topeka, KS

Presented by:
Mark Wulfkuhle, Farmer
Berryton, KS

Chairman Schmidt and members of the committee, thank you for the opportunity to testify in opposition of SB 464. I am Mark Wulfkuhle, a farmer from Berryton, KS. I, along with my wife Brenna, operate a family farming and cattle feeding operation in western Douglas County, located directly between Topeka and Lawrence. More importantly we operate a small family owned custom fertilizer and chemical applying business which covers approximately 20,000 acres annually.

Being both a farmer and a custom applicator, I cannot see where this bill would be of benefit to either of my businesses. Both my farming and spraying businesses are becoming more heavily regulated every year and the paperwork has become insurmountable. This legislation would increase the many various fees we already pay, as well as more red tape to labor through.

I like all my farming neighbors must have a license and keep field records on every chemical that is purchased and applied on our acreage. We must also keep track of the wind speed, temperature, amount of product applied per acre, and the total amount of product used in each load. I have included a copy of the spray record sheet that we use in our operation as an example. Upon completing the application I must keep the records for three years. The Kansas Department of Agriculture (KDA) has the authority to audit these records at any time. If label directions or misapplication occurs, very large fines can be assessed to chronic abusers. Therefore, I feel these are double regulations for a department that lacks the resources to police them.

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February 17, 2004
Attachment 5

One question I have is on the proposed 200-gallon threshold on tanks for registering. Most ground sprayers have 800 to 1200 gallon tanks.

Will this proposed legislation require me to register the two 250 gallon saddle tanks on my tractor that is self-propelled?

Will it require registration of the 200-gallon tanks on my self-propelled pickup that I use to spot spray noxious weeds?

I believe that this definition is exceptionally vague and could easily be misinterpreted.

To conclude, I feel this proposed legislation could be a huge burden on small business owners who cannot spread this expense over tens of thousands of acres. Smaller farmers will be forced to stop doing their own spraying and will have to rely solely on custom applicators. I feel this may be the intent of this legislation. Therefore, I am here today to ask that you reject SB 464. Thank you for your time.

John Heise, President
Kansas Soybean Association
Testimony in opposition of SB-464
Senate Agriculture Committee Hearing
February 17, 2004

My name is John Heise from Scranton and I am president of the Kansas Soybean Association. Thank you for allowing me the time to address your committee today. As president of the Kansas Soybean Association I will be speaking for our board of directors, and members in opposition of SB-464. Because of the great interest this bill has generated and the number of individuals interested in testifying, I will be brief with my comments.

My father and I raise soybeans, other crops and livestock in Osage County. We operate under a Certified Private Applicator license which requires us to be certified in order to purchase restricted use products. The training farmers take to become certified is extensive. It provides us the background we need to properly store, handle and apply our pesticides and fertilizers. An existing roster of over 17,000 Certified Private Applicators in Kansas shows our farmers are trained and educated. It is important to remember that all applicators, including the smallest of farmers, are required to use any pesticide in accordance with the product label. Registrants are required to place needed requirements for safe use, for the applicator and the environment, on the label, and the label is the law.

This bill will impact family farmers who are already complying with known regulations and labels. The registration of non-commercial application equipment would affect farmers throughout the State, needlessly add to the state bureaucracy, and provide no benefit. We are not aware of any state that makes this requirement from its farmers.

We understand that The Kansas Department of Agriculture (KDA) is in the relatively early stages of implementing recent changes to Kansas Pesticide and Fertilizer Law. They believe the process is going well. In light of their progress, SB-464 is not needed. In and of itself, SB-464 does not do anything other than require equipment registration. The Kansas Soybean Association feels it is unnecessary to create a new perhaps duplicate list of farmer pesticide and fertilizer applicators.

This bill is another hoop to jump through and the beginning of more red tape to hamper large and small framers, and we wonder why corporate farms are taking over. Many of these corporations have the paper pushers to do nothing but take care of these unnecessary regulations and paper work.

I appreciate this opportunity to address the committee and once again urge you to vote against this bill.

Senate Agriculture
February 17, 2004
Attachment 6

CALDWELL FARMS INC

PO Box 42

GARNETT, KS 66032-0042

OFFICE 785-448-6170

CELL 785-448-4174

GLENN A. CALDWELL PRESIDENT

2/16/04

Re: SB464 Testimony Before the Senate Agriculture Committee

My name is Glenn Caldwell, and I farm in Anderson, Franklin, and Coffey County. I thank you for the opportunity to speak today in opposition to Senate Bill 464.

Growers like me are the targets of Senate Bill 464. I own self-propelled fertilizer and pesticide application equipment with a capacity of over 200 gallons. If this law passes, I would be required to register my equipment. The \$10 registration fee and the paperwork would be a nuisance, but that's not why I oppose this bill. I simply fail to see what benefit this bill would provide to the State of Kansas, to farmers, to our environment, or even to the members of Kansas Agribusiness Retailers Association, which supports this bill.

The text of this bill gives no reason for registration and outlines no uses for the database of equipment and owners that it would create. It is obvious to me that the ultimate goal of this legislation goes way beyond the bill itself. My name would simply be on another list, and my money would be collected by the State to administer the list. Senate Bill 464 appears to be a legislated deterrence to the work that I love and an attempt by some KARA members to control what they perceive as farmer competition through more regulation? If it is, I would be disappointed. Farmers like myself are customers of the retailers represented by KARA.

Farming is not only a business for me, but also a way of life. As a business owner I work hard to follow the complex web of rules and regulations, especially in the area of farm chemicals. I am a Certified Private Applicator, and I use my application equipment to legally apply fertilizer and pesticides on my farmland. I follow the label on the products I use. If the Ag retailers are attempting to restrict my ability to legally apply fertilizers and pesticides, then I should reconsider purchasing these products from a KARA member. If all private applicators did the same, that would be a no-win situation and a huge detriment to Kansas's agribusiness.

There are already rules in place to regulate private applicators like myself. Instead of muddying the waters with another layer regulations, let's concentrate on making the best of the laws that we already have. The Kansas Department of Agriculture is in the early stages of implementing the latest round of changes to our state's fertilizer and chemical law. I say, let the Department do its impartial job without the further input of KARA special interest. The last thing we need is to add another layer of bureaucracy in the regulation of fertilizer and pesticide use.

What does the next KARA legislative effort to regulate me, an individual farmer, into one of their commercial custom applicators look like? I'm sure there is one in the works and I think you do too. It is time to put a stop to these efforts. Senate Bill 464 does not deserve to move forward. It is time to just say no and let them earn their business by providing the best service and goods, not by seeking greater regulation on farmers like me.

Senate Agriculture
February 17, 2004
Attachment 7



Testimony Regarding SB464 Before the Senate Agriculture Committee

My name is Bob Timmons, and I farm with my brother in the Fredonia area. I serve on the board of the Kansas Corn Growers Association. I want to thank the committee for the opportunity to speak today in opposition to Senate Bill 464.

It's unfortunate that this has been portrayed as an ongoing fight between the Ag Retailers and crop producers, because this is a fight we have not asked for. In fact, our organization asked that this bill not be heard in committee. There is a difference between being a willing sparring partner and being dragged in to a fight. We were told to "Round up the troops" for this hearing and then told that total time allowed for opposition would be twenty minutes. There are four commodity groups, several individual farmers, and at least one general farm organization with opinions and expectations to be heard. There is one group pushing this bill, and they were granted equal time to the combined opposition. If this bill wasn't so obviously bad for Kansas and destined to fail, I would be even more disappointed.

The Kansas Agribusiness Retailers Association continues to push for stricter regulation in an attempt to regulate what they perceive as competition from farmers, their customers. This is bad policy for the State to embrace. Unfortunately, this bill serves no purpose. It would create a database of all self-propelled pesticide and fertilizer equipment that holds over 200 gallons. According to KDA, this would include tractors with mounted tanks and even sprayers that are slid onto the beds of pickup trucks. The Kansas Department of Agriculture already has a database of over 17,000 Certified Private Applicators in Kansas. I would speculate that virtually all of the people affected by this bill are already registered as Certified Private Applicators, since that is a requirement to purchase restricted use products from Ag retailers.

We don't know of any other states that have a registration requirement like this. In fact, we have confirmed that our bordering states of Missouri, Nebraska, Oklahoma and Colorado do not have these types of requirements. Kansas used to require registration of commercial application equipment, but dropped that requirement in the 1970s because they saw no net benefit in registering the equipment.

Instead of creating new bureaucracies and new regulations, we should focus on encouraging compliance with the laws we already have in place. The Department of Agriculture is implementing recent changes to Kansas Pesticide and Fertilizer Law. We believe that the early stages of this process are going well. If there is dissatisfaction in how existing pesticide regulations are being enforced, we should address those concerns, and not make another new law so we can later complain how that is being enforced.

I am asking this committee to say no to unnecessary regulation and this attempt to regulate individual farmers in a way that even commercial applicators have not been regulated in three decades by saying no to Senate Bill 464.

P.O. BOX 446, GARNETT, KS 66032-0446 • PHONE (785) 448-6922 • FAX: (785) 448-6932
www.ksgrains.com/corn • jwhite@ksgrains.com



Senate Agriculture
February 17, 2004
Attachment 8

To: Chairman Derek Schmidt and Senate Agriculture Committee

From: John Kabus, County Weed Directors Association of Kansas & Shawnee County Noxious Weed Director

Date: February 17, 2004

Re: Senate Bill 464

The County Weed Directors of Kansas would like to respectfully request that if Senate Bill 464 is to become law, that an amendment be added to exempt the pesticide application equipment of government agencies. Currently, government agencies that apply pesticides are regulated by the Kansas Department of Agriculture. We feel government agencies should be exempt from the registration of their self-propelled application equipment for the following reasons:

- County vehicles used for pesticide application are already required to be marked by Kansas law.

K.S.A. 8-305. Marking of vehicles of political subdivisions; how marked. All motor vehicles owned or leased by any political subdivision of the state of Kansas shall bear the name of the political subdivision owning or leasing such vehicle plainly printed on both sides thereof.

- The Kansas Department of Agriculture currently requires Government Agencies that use pesticides to pay a fee and apply for registration annually. The Kansas Department of Agriculture regularly inspects our pesticide application records and equipment.
- Although not required in SB 464, we are concerned with the possible increase of taxpayer funds sent to a state agency for fees and registrations.

Shawnee County has remitted \$685.00 to the Kansas Department of Agriculture in the last two years for various fees and registrations.

- Most pesticide applications by government agencies are made in public areas by clearly marked application equipment and are routinely evaluated by the viewing public and state regulators.

Thank you for your thoughtful consideration of this matter.

Senate Agriculture
February 17, 2004
Attachment 9



P.O. Box 1266 • Manhattan, KS 66505-1266 • (785) 587-0007 • FAX (785) 587-0003

**Senate Agriculture Committee
Testimony on S.B. 464
February 17, 2004**

Chairman Schmidt and members of the Committee, my name is Brett Myers, Executive Vice President of the Kansas Association of Wheat Growers. I am here in opposition of Senate Bill 464 an act concerning pest control and fertilizer, relating to application equipment; amending K.S.A. 2-2456 and repealing the existing section.

The reason I just read that whole opening is because we already have legislation concerning this issue. The first line of the statute reads, "*The secretary may, at his or her discretion, require the registration of any equipment used in the commercial application of pesticides, and any equipment required to be so registered may be marked for identification in a manner prescribed by the secretary.*" As you can clearly see, the Secretary of Agriculture already has this authority. There is no further need for registration of non-commercial application equipment throughout the State of Kansas.

There is an existing roster of over 17,000 Certified Private Applicators already in place at the Kansas Department of Agriculture, of which many are members of all the commodity groups represented here today. It is the perception by some of the proponents of this bill that there are many, many producers that are not following the regulations set forward in the Private Applicators regulations or the recent changes to the Kansas Pesticide and Fertilizer Law. We as Kansas Commodity Groups have volunteered to work together with these proponents in educating farmers on these regulations and recent changes in lieu of S.B. 464, but our offer was declined.

S.B. 464 would needlessly affect many, many farmers, who already have Certified Private Applicators licenses, to more state bureaucracy and provide no benefit. These farmers are already following all state regulations and laws that apply.

This is why the Kansas Association of Wheat Growers does not support S.B. 464 and we ask that you do the same. Thank you for your time and I would take any questions at the appropriate time.

Senate Agriculture
February 17, 2004
Attachment 10



Leslie Kaufman, Director
Governmental Relations
Kansas Cooperative Council

Senate Agriculture Committee

February 17, 2004

SB 464 – Pesticide/fertilizer application equipment registration.

Chairman Schmidt and members of the Senate Committee on Agriculture, I am Leslie Kaufman and I serve the Kansas Cooperative Council as Governmental Relations Director. The Council includes 186 cooperative business members. Together, they have a combined membership of nearly 200,000 Kansans. We thank you for the opportunity to appear today in support of SB 464 requiring the registration of certain pesticide and fertilizer application equipment.

The KCC supports registration of large-scale fertilizer and pesticide application to facilitate the enforcement of current regulations for storing, handling, and applying bulk fertilizers and agricultural chemicals. We think that such a program will be an essential tool for carrying out the intent of pesticide and fertilizer regulation.

You have already heard from Doug Wareham, Kansas Agribusiness Retailers Association, and he has referenced correspondence submitted by members of their association. Many of these entities are also members of the Co-op Council. I have attached a list of the businesses that also belong to the KCC.

As you can see by the large number of letters submitted, this is an important issue for our membership. We respectfully request your favorable action on SB 464.

Thank you.

*Senate Agriculture
February 17, 2004
Attachment 11*

Joint KCC and KARA members submitting letters on SB 464

Dodge City Cooperative Exchange, Dodge City
Farmers Cooperative Association, Talmage
Farmers Grain and Supply Company, Greensburg
Farmers Co-op Elevator, Sabetha
Farmco, Inc., Tribune
Scott Cooperative Association, Scott City
Cairo Co-operative Equity Exchange, Cunningham
Farmway Co-op Inc., Beloit
Midway Co-op, Inc., Osborne
Great Bend Co-op Association, Great Bend
Two Rivers Co-op, Arkansas City
Farmers Cooperative Association, Manhattan
Right Cooperative Association, Wright
Wallace County Cooperative Equity Exchange, Sharon Springs
North Central Kansas Cooperative, Hope
Valley Coop, Inc., Winfield
Johnson Cooperative Grain Co., Johnson
Farmers Union Co-operative Co., Spring Hill
Mid-Kansas Co-op, Walton (now merged with Mid-Kansas Co-op, Moundridge)
Kanza Co-op, Iuka - Zenith Branch
Cropland Co-op, Inc., Ulysses
Farmers Co-op Grain, Wellington
Co-Ag, Oakley

STATEMENT OF THE KANSAS AGRICULTURAL AVIATION ASSOCIATION
TO THE SENATE AGRICULTURE COMMITTEE

SENATOR DEREK SCHMIDT, CHAIR

REGARDING S.B. 464

FEBRUARY 17, 2004

Mr. Chairman and Members of the Committee, I am Chris Wilson, Executive Director of Kansas Agricultural Aviation Association (KAAA). KAAA's nearly 300 member companies are involved in the aerial application of crop protection chemicals.

KAAA has worked with the Kansas Agribusiness Retailers Association (KARA) on an amendment regarding aircraft. This amendment would exempt aircraft, since agricultural aircraft are already registered by number with the Department of Agriculture and receive a sticker from the Department. That information is listed on the pesticide business license. Each ag plane is also registered with the Federal Aviation Administration and is required to have a Part 137 certificate from FAA in order to apply pesticides.

With this amendment, we are supportive of the concept and purpose of this legislation, to assist the Department of Agriculture in identifying commercial type application equipment and insuring compliance with pesticide law and regulation. We pledge our support and assistance to the Department in helping to insure compliance.

Thank you for the opportunity to comment on S.B. 464.

Senate Agriculture
February 17, 2004
Attachment 12

FARMWAY CO-OP INC.

785-738-2241

204 EAST COURT, P.O. BOX 568, BELOIT, KANSAS 67420-0568

www.farmwaycoop.com

Date: February 10, 2004

To: Senator Derek Schmidt
State Capitol
Room 143-N
Topeka, Kansas 66612

From: Frank Shelton
Crop Production Business Manager
Farmway Coop, Inc.
P.O. Box 568
Beloit, KS 67420

Re: Support for Senate Bill 464

I appreciate the opportunity to submit comments in support of Senate Bill 464. Farmway Coop, Inc. has proudly served the agricultural producers in North central Kansas for the past ninety-three (93) years by providing the best crop production inputs and agronomic services possible. We have and continue to make considerable investments in environmental containment structures and educational training for our employees to ensure we protect the environment. We also pay significant premiums for commercial liability insurance to ensure that while we are providing crop production services to Kansas farmers, we are also taking the necessary precautions to protect our customers and any other party we may unintentionally impact.

Unfortunately, there is a growing trend in North Central Kansas toward widespread ownership of commercial type fertilizer and ag-chemical application equipment by agricultural producers. This trend toward producer ownership of large equipment has also led to a significant increase of unlawful commercial business activity that appears to be going unnoticed by the Kansas Department of Agriculture (KDA). KDA is the state agency that regularly physically inspects our facility to ensure we are complying with all the laws and regulations that apply to the storage, transportation and application of fertilizers and ag-chemicals.

I am aware of at least fifty (50) owners of large, commercial-type application equipment, both liquid and dry, in our trade territory and also know that many of these large applicators are supported by farmer-owned bulk fertilizer and/or ag-chemical storage. Unfortunately, we do not see the same scrutiny being focused on these operations by KDA as is applied to our operation. Additionally, I am also well aware that some of the owner/operators (most of which do not

FARMWAY CO-OP INC.

785-738-2241

204 EAST COURT, P.O. BOX 568, BELOIT, KANSAS 67420-0568

www.farmwaycoop.com

maintain a pesticide business license) of this equipment are performing custom application work for nearby farmers. Performing custom application of pesticides for compensation without a business license is clearly illegal, but once again we fail to see action by KDA to address this growing problem.

It is my understanding that Senate Bill 464 will require all owners of self-propelled fertilizer and pesticide application equipment with a capacity of greater than 200 gallons to be registered with the KDA. I believe the adoption of this legislation will be a positive first step that will enable KDA to identify and educate all owners of large application equipment that there are laws and rules in place that apply to them as owners of large application equipment.

Thank you for the opportunity to share these comments and concerns.

Sincerely,



Frank Shelton

Kenlon Johannes, CEO
Kansas Soybean Association
Testimony in opposition of SB-464
Senate Agriculture Committee Hearing
February 17, 2004

My name is Kenlon Johannes and I am CEO of the Kansas Soybean Association. Thank you for allowing me the time to address your committee today. As CEO of the Kansas Soybean Association I can relay that our Legislative Committee has reviewed SB-464 and voted to oppose it.

This bill will impact family farmers, who are already complying with current regulations and labels requirements, the legislature does not need to create new unnecessary registration requirements.

Our soybean farmers are part of Kansas farmers who take the time and are trained to become Certified Private Applicators. It is unlikely that any farmer subject to containment and/or commercial regulations wouldn't already be a Certified Private Applicator. It is a requirement to be certified in order to purchase restricted use products, our farmers do not need to be on another registration list.

Those who are Certified Private Applicators are required to use any pesticide in accordance with the product label under current laws. They understand the economic and environmental importance of wise use of pesticides and fertilizers. The Kansas Soybean Association feels the registration of non-commercial application equipment would needlessly add to the state bureaucracy, provide no benefit and we oppose it.

*Senate Agriculture
February 17, 2004
Attachment 14*



**Written Comments on SB464
Submitted to the Senate Agriculture Committee
February 17, 2004**

My name is Greg Shelor, and I am a grower from Minneola and president of the Kansas Grain Sorghum Producers Association. I am at our national meeting in Little Rock today, but I appreciate the opportunity to share our opposition to SB464, a bill that would require the registration of farmer owned pesticide and fertilizer application equipment.

This bill would do two things. It would create a large database of fertilizer and chemical application equipment, but does not create a use for that database. It also would collect \$10 from each registration, but does not direct a use for that money, or even a place for that money.

This bill would impact family farmers like me who are already complying with current regulations and labels, and who are willing to learn more. The state already has a database of over 17,000 Certified Private Applicators. Creating a second database of people with a certain size and type of application equipment is redundant and unnecessary.

This bill was proposed by the Kansas Ag Retailers Association. Their stated reasoning was that a new database would help ensure enforcement and compliance with containment regulations. Regulations for enforcement are already in place. As I mentioned earlier, this bill does nothing beyond requiring registration of application equipment.

This appears to be yet another attempt by some KARA members to control competition from farmers (their customers) through further regulation. Perhaps the thinking behind this bill is to make farmers jump through so many hoops that many will decide it's just not worth the hassle to maintain their own application equipment. Maybe retailers should address these issues through marketing of services and products, not by pushing for additional regulation.

It is inconceivable to me that any farmer in Kansas would consider this to be a reasonable regulatory proposal because SB464 offers no benefit to the State of Kansas, I am asking, on behalf of Kansas producers, that the members of the Senate Agriculture Committee to vote against SB 464.





Kansas Farm Bureau

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800 SW Jackson St., Ste. #1008, Topeka, Kansas 66612 • 785.234.4535 • 785.234.0278

PUBLIC POLICY STATEMENT

Senate Committee on Agriculture

RE: SB 464 – an act concerning pest control and fertilizer; relating to application equipment

**February 17, 2004
Topeka, Kansas**

**Presented by:
Steve Baccus, Farmer
Minneapolis, Kansas**

Chairman Schmidt and members of the Senate Committee on Agriculture, thank you for the opportunity to present testimony in opposition of SB 464. My name is Steve Baccus and I run a medium-sized, no-till family grain farm in north central Kansas. I also serve as the President of Kansas Farm Bureau, the state's largest general farm organization.

As a no-till farmer, I am extremely reliant upon timely chemical applications. This legislation does nothing more than add another burden, another layer of costly government regulation to my business. While some may argue that's a cost of doing business, I contend it is an unnecessary expense that I cannot recover in the marketplace. The proposed registry program does nothing to make me a more efficient producer, nor does it make my farming operation friendlier to the environment. Quite the opposite, this bill is a clear attempt to tax independent farmers and add extra, unneeded bureaucracy to an already highly regulated industry.

I encourage this committee to think beyond the fees that this program would generate, and to think about the level of government intervention this bill proposes. This bill would introduce an inappropriate precedent of government oversight that encroaches on my right to have machinery and equipment of my choosing, as I see fit, on my private property. With freedom comes responsibility, and I firmly believe that farmers are a responsible group and manage their equipment and inputs appropriately. There is no rational excuse for government maintaining an inventory list of property owned by potentially more than 60,000 farmers in Kansas. I think I could speak for many of my fellow agricultural producers when I say that I, and my neighbors, will not accept such a proposition.

*Senate Agriculture
February 17, 2004
Attachment 16*

For several years I have actively participated in the resolutions, or policy-development, process of Kansas Farm Bureau. One of the central references in many policy discussions within Farm Bureau rests upon the premise that the right to farm is protected in Kansas statute. You, as a committee, are being presented with a potential shift in that fundamental public policy. That is a dangerous step in further eroding the ability for independent farmers and ranchers to care for the land in the best manner they, not government, deem fit.

I appreciate the opportunity to convey my strong opposition to this bill and encourage the committee to reject any favorable action.

STATEMENT OF THE KANSAS SEED INDUSTRY ASSOCIATION

TO THE SENATE AGRICULTURE COMMITTEE

SENATOR DEREK SCHMIDT, CHAIR

REGARDING S.B. 464

FEBRUARY 17, 2004

Mr. Chairman and Members of the Committee, I am Ken Rahjes, Assistant Director of Member Services of Kansas Seed Industry Association (KSIA). Our members are involved in the production, processing, storage, retail and distribution of agricultural seeds.

KSIA is opposed to S.B. 464. We are not opposed to individuals and companies being required to comply with laws and regulations affecting the application of pesticides. We do not believe, however, the approach in S.B. 464 would be effective in identifying those not in compliance. If they are not in compliance now, it's unlikely they would register under S.B. 464. Nor do we believe it would efficiently utilize Department of Agriculture resources to ensure compliance.

Thank you for the opportunity to comment on S.B. 464.

Senate Agriculture
February 17, 2004
Attachment 17



KANSAS

DEPARTMENT OF AGRICULTURE
ADRIAN J. POLANSKY, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

Written Testimony on Senate Bill 464

To

The Senate Committee on Agriculture

By **Greg Foley**
Assistant Secretary
Kansas Department of Agriculture

February 17, 2004

Chairman Schmidt and members of the committee, we thank you for allowing the Kansas Department of Agriculture to submit written testimony on Senate Bill 464.

Senate Bill 464 seeks to provide for the registration of all self-propelled fertilizer or pesticide application equipment capable of containing more than 200 gallons. The Department of Agriculture has information to assist with the deliberations on this bill.

We also are seeking clarification on a number of issues, particularly as they relate to the definition of the regulated community and the expectations which would be placed on the department if this bill became law.

History

Before the current Pesticide Law was enacted, in the 1970s, two statutes regulated pesticide businesses in Kansas. One of those, the old Pest Control Act, required licensing of commercial termite, structural, and tree and lawn pesticide businesses.

Since inception of the current law, the pest control industry has been required to mark service vehicles with the name of the business and the business license number. Agricultural, right of way and other non-residential businesses were licensed under the Kansas Pesticide Use Law. Under that law, commercial agricultural businesses were required by regulation to register and mark their application vehicles.

When the Kansas Pesticide Law was enacted, it included both the licensing of pesticide application businesses and education and testing of pesticide applicators. At that time the agency reassessed its requirement for marking of pesticide application vehicles. It was determined that

the marking requirements for commercial pest control vehicles should be retained for the protection of a level playing field for legitimate termite and pest control businesses and their consumers. The pest control industry has done an excellent job of serving as eyes and ears for this agency by alerting us to the presence of unmarked and, thus, potentially unlicensed pest control vehicle activity.

During that same period, the agency evaluated the benefits obtained from marking commercial agricultural related pesticide application vehicles. It was determined that the combination of business licensing and applicator certification provided sufficient information for enforcement. As a consequence, the requirement for registering and marking of agricultural pesticide spray equipment was discontinued. Subsequently, the agency decided to reinstitute the marking of aerial pesticide application aircraft via decals. This has proven to be a valuable adjunct to FAA's aircraft marking as it relates to our enforcement activities and, more recently, to homeland security. The agency has not to date been involved in requiring the marking of fertilizer application equipment or pesticide application equipment used by producers.

Pesticide Containment Regulations

The amended bulk fertilizer containment regulations went into effect last July. These regulations were developed with input and detailed review by the regulated industry, including Kansas Agribusiness Retailers Association, Kansas Farm Bureau and the Kansas Corn Growers.

The amended bulk pesticide containment regulations went into effect Dec. 27, 2002. These regulations also were developed with input and detailed review by the regulated industry, including KARA, Farm Bureau, the Kansas Corn Growers and others.

This group agreed that a deadline of Dec. 27, 2003 was necessary to give facilities enough time to gather the information and complete the applications necessary to comply with this regulation. A modification or construction period of two years gives facilities time to bring their containment systems into compliance.

Facility to Farm Inspections

New record keeping requirements added to KAR 4-4-983 allow KDA fertilizer inspection staff to track fertilizer sales of 2,000 gallons or more. They review bulk sales records, then follow up with a scheduled visit to the buyer's farm. There they review the receipts, inspect the storage area and provide educational materials.

This activity began about six weeks ago, in January 2004. So far, 27 farms have been visited and we have found 85 percent compliance. We will be increasing this activity as the spring farming season nears.

Education about the new regulations is still continuing, and we have not taken enforcement action against either farmers or retailers which have been found out of compliance. Our priority is to encourage compliance through information and education in the initial implementation phase of the new regulations.

We also follow up by investigating complaints received, and so far we have not found licensing violations by producers as a result of these complaints. The last two days have generated several new complaints, and we will investigate them.

Questions

The agency still has a number of questions that it would like to have clarified to more accurately evaluate this proposed bill. In general terms, these questions relate to the definition of the regulated community, the expectations of the agency with regards to enforcement, and the disposition of monies.

Specifically, we have questions as follows:

- What is meant by the term “self propelled” equipment? Does this include everything except wheeled equipment pulled by a hitch? Does this include spray tanks loaded onto motorized vehicles? Does this include tractors with saddle tanks?
- Is this limited to equipment such as spray coupes, high-boys, and floaters?
- Does the definition of “self propelled” also include irrigation pivots which are used to apply fertilizers or pesticides?
- Will registration of the large self propelled anhydrous ammonia application equipment units be required?
- Does the bill’s reference to gallons exempt “dry” fertilizer application equipment from registration?
- What are the enforcement activity expectations?
- Where are the registration fees and civil penalties to be deposited?
- Since the registration fee is basically a one-time fee, are there funding sources anticipated for on-going KDA activities associated with this bill?

Our fiscal impact shows a broad range of potential registration numbers (ranging from 30,000 to 100,000 registered units) and a broad range of potential activities. Clarification on a number of the questions above will allow us to provide a more accurate assessment of both the size of the regulated community and the potential associated costs. In general, however, our early fiscal analysis shows the proposed \$10 registration should be able to fund these new program activities.