

Approved: 02/03/10

Date

MINUTES OF THE SENATE AGRICULTURE COMMITTEE

The meeting was called to order by Chairman Mark Taddiken at 8:30 a.m. on January 26, 2010, in Room 144-S of the Capitol.

All members were present except:

Senator Janis Lee- excused

Senator Steve Morris- excused

Committee staff present:

Kristen Kellems, Office of the Revisor of Statutes

Corey Carnahan, Kansas Legislative Research Department

Judy Seitz, Committee Assistant

Conferees appearing before the Committee:

Katie Howard, Environmental and Laboratory Issues Director, Kansas Department of Agriculture (KDA)

Mary Jane Stankiewicz, COO and Senior Vice President, Kansas Agribusiness Retailers Association (KARA)

Mark Hassman, Manager, Kansas Pest Control Association, Inc. (KPCA)

Leslie Kaufman, Executive Director, Kansas Cooperative Council (KCC)

Brad Harrelson, State Policy Director Governmental Relations, Kansas Farm Bureau (KFB)

Dave Starkey, Chief Legal Counsel, Kansas Department of Agriculture (KDA)



Others attending:

See attached list.

Chairman Taddiken noted the Committee had received copies of the minutes for the January 12, 13, 19 and 20 meetings. He requested the Committee review the minutes and take action on them at the end of the meeting.

**Hearing on SB 394 - Pesticide education.**

Kristen Kellems, Office of the Revisor of Statutes, reviewed SB 394.

Ms. Kellems offered to take questions.

Katie Howard, Environmental and Laboratory Issues Director, Kansas Department of Agriculture (KDA) presented testimony in support of SB 394. (Attachment 1). She said that KDA's pesticide and fertilizer program is charged with certifying pesticide applicators. By statute, any study materials used by the KDA to develop their certification exams must come from Kansas State University (KSU). Ms. Howard also stated that this bill would allow KDA to use the most current materials to prepare the certification exams, whether the material is developed at KSU or elsewhere.

Ms. Howard offered to stand for questions.

Mary Jane Stankiewicz, COO and Senior Vice President, Kansas Agribusiness Retailers Association (KARA), testified in support of SB 394. (Attachment 2) She said that because of budget concerns there is a need for greater flexibility for both KSU and KDA in providing training manuals to members of the KARA.

Ms. Stankiewicz offered to take questions.

Mark Hassman, Manager, Kansas Pest Control Association, Inc. (KPCA), (Attachment 3) spoke in support of SB 394 with one change in the language on line 15 and line 22 to read "*other educational institutions, state and federal agencies, professional trade associations, or other person.*"

Mr. Hassman took questions from the Committee

CONTINUATION SHEET

Minutes of the Senate Agriculture Committee at 8:30 a.m. on January 26, 2010, in Room 144-S of the Capitol.

Leslie Kaufman, Executive Director, Kansas Cooperative Council (KCC), testified in support of **SB 394** (Attachment 4) Ms. Kaufman said the KCC sees the changes proposed in **SB 394** bill as a common-sense approach that can allow the KDA and their cooperative programming with KSU, additional cost-effective, time-efficient options.

Ms. Kaufman took questions from the Committee.

Brad Harrelson, State Policy Director, Governmental Relations, Kansas Farm Bureau (KFB) provided neutral testimony on **SB 394**. (Attachment 5) Mr. Harrelson said that access to other and up-to-date readily available materials makes some sense and could potentially help alleviate some of the funding challenges that the pesticide education program has experienced over the past few years

Mr. Harrelson offered to take questions.

The hearing on **SB 394** was closed.

**Hearing on SB 393 - Department of Agriculture administrative.**

Ms. Kellems briefed the Committee **SB 393**.

Ms. Kellems answered questions from the Committee.

Dave Starkey, Chief Legal Counsel, Kansas Department of Agriculture (KDA) appeared in support of **SB 393**. (Attachment 6). He said this bill relates primarily to action taken on licenses and permits. Under the Kansas Administrative Procedure Act (KAPA), a state agency may not deny, suspend or revoke a license unless notice is given and the opportunity for a hearing is given. He said that currently many of the statutes which the department administers and enforces state that licensing action can be taken only after "notice and hearing." Mr. Starkey said the current law requires a hearing whether the licensee wants a hearing or not. **SB 393** would be more efficient and result in savings because there would no longer be the costs for staff attorney, witnesses and in some cases a hearing officer.

Mr. Starkey said the final change is in the implementation of a new statute under the Kansas dairy law that would allow the temporary suspension of a license or permit. Kansas has adopted the U.S. Food and Drug Administration's Grade A Pasteurized Milk Ordinance (PMO) which sets standards for milk distribution. According to the PMO, if there are repeated violations of lab tests or sanitation standards, the license of the dairy producer is to be suspended. **SB393** would add a provision that a license could be suspended for violations of the PMO.

Mr. Starkey took questions from the Committee.

The hearing on **SB 393** was closed.

Motion to approve the minutes of the January 12, 13, 19 and 20 was made by Senator Bruce, seconded by Senator Pyle. Motion carried.

The next meeting is scheduled for January 27, 2010.

The meeting was adjourned at 9:12 a.m.



**Testimony on SB 394  
to  
The Senate Agriculture Committee**

**by Katie Howard  
Environmental and Laboratory Issues Director  
Kansas Department of Agriculture**

**January 26, 2010**

Good morning, Chairman Taddiken and members of the committee. I am Katie Howard, environmental and laboratory issues director for the Kansas department of agriculture (KDA), and I am here in support of Senate Bill 394.

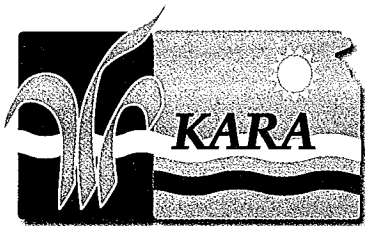
KDA's pesticide and fertilizer program is charged with certifying pesticide applicators. Competency testing is a requirement of that certification process. New applicators and those seeking to renew a certification need educational material to prepare them to take the written examinations and to safely apply pesticides. By statute, any study materials we use to develop our certification exams must come from Kansas State University (KSU). The KSU study manuals currently available are outdated. Some of the manuals have not been updated for more than 20 years. The pest control industry has not remained static. Pesticide development and application technology have dramatically evolved in recent years, and continue to do so.

The proposed amendments will allow KDA to use the most current material to prepare the certification exams, whether the material is developed at KSU or elsewhere. In doing so, we would ensure the most up to date educational information is available to our pesticide applicators. For example, the National Association of State Departments of Agriculture (NASDA) has a free general manual we could direct applicants to use. There are EPA funded regional manuals as well as relevant manuals from other sources. The current statute would prohibit KDA from using these materials.

Our proposed statute changes will allow KDA to base our competency certification process on the most current educational materials. This benefits the pesticide applicators, the consumer, and the environment.

I will answer questions at the appropriate time.

*Senate Agriculture Committee  
January 26, 2010  
Attachment 1*



# KANSAS AGRIBUSINESS RETAILERS ASSOCIATION

*SAFE AND ABUNDANT FOOD THROUGH SOUND SCIENCE*

**Senate Agriculture Committee**

**January 26, 2010**

**SB 394**

Good morning Chairman Taddiken, and members of the Senate Agriculture Committee. I am Mary Jane Stankiewicz and I appear on behalf of the Kansas Agriculture Retailers Association (KARA) in favor of SB 394.

KARA is a voluntary state association made up of over 700 business locations across the state. Our members are primarily ag retail facilities but they include agronomy services, chemical, fertilizer and seed sales and manufacturing companies, and equipment manufacturing, distribution and sales companies. As you can see, our members use and need the manuals and information that this bill refers to.

We are supportive of this bill because we recognize the budget cuts that all agencies and institutions have had to take over the last few years, including the Kansas Department of Agriculture and Kansas State University. We believe this bill would lessen the requirement that KSU must do all of the work on these manuals and thus allow more flexibility for both KSU and KDA. In these times of budget shortfalls we appreciate the desire of KDA to look for ways to provide these educational manuals in ways that may be cost effective for all concerned.

We appreciate the work KSU has done in this area in the past, however some of this information is not Kansas specific and thus there may be manuals in existence that can be used in Kansas. While we anticipate KSU will be a main source of information we think it is only fair that instead of looking for them to do all of the work.

I appreciate the opportunity to appear before you this morning and will be happy to answer any questions at the appropriate time.

*Senate Agriculture Committee  
January 26, 2010  
Attachment 2*

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**Testimony of Mark Hassman  
Hassman Termite & Pest Control, Inc.  
Before the Senate Agriculture Committee  
On Senate Bill 394**

**Tuesday, January 26, 2010**

**Thank You Mr. Chairman and Members of the Committee:**

My name is Mark Hassman. I reside in Salina and am part of a pest control business which my family has started some 48 years ago. We are also very active in our trade association and I am here today as a representative of the Kansas Pest Control Association to speak in support of Senate Bill 394.

This Bill before you is one that was derived I am sure as a result of necessity for the Department of Agriculture. Two years ago it became obvious that the primary agency that was delegated the responsibility of providing pesticide use and safety training in the Kansas was running into roadblocks in being able to adequately finance this duty. The Secretary, for as long as I can remember, has given the duty to KSU extension services Pesticide Safety Education Program as currently allowed by statute. There has been an effort to come up with a way to finance this program but we have been unable to come up with an agreement on it.

The current programs are in need of improvement. Training opportunities need to be expanded to meet the ever changing nature of pest management. Certification training manuals, while containing useful information, have not been updated to reflect the industry today.

As I mentioned earlier, this Bill I am sure was derived out of necessity. The Department understands full well that the responsibility of insuring adequate, up to date training opportunities lies squarely on their shoulders. But they need greater flexibility to be addressed in the Statutes –flexibility that would ultimately give them a broader choice of entities that they could partner with to meet this obligation.

The Kansas Pest Control Association supports this Bill but would request one slight change in language. We would like line 15 to read “other *educational institutions, state and federal agencies, professional trade associations, or other person....*” In addition we would also like line 22 to read with the federal government, with any professional trade association, or with any person... We feel this would give the Secretary another reasonable option to exercise.

We urge the adoption of this Bill. It gives more flexibility to the Secretary and still retains the necessary oversight by the Department for pesticide safety and use training. I thank you for the opportunity to speak here today and would be happy to answer any questions you may have.

*Senate Agriculture Committee  
January 26, 2010  
Attachment 3*

Senate Agriculture Committee  
January 26, 2010

**SB 394 - Allowing KDA to partner with multiple entities to provide pesticide safety information.**

Chairman Taddiken and members of the Senate Agriculture Committee, thank you for the opportunity to comment in support of SB 394. I am Leslie Kaufman, Executive Director for the Kansas Cooperative Council.

The Kansas Cooperative Council (KCC) represents all forms of cooperative businesses across the state -- agricultural, utility, credit, financial and consumer cooperatives. Approximately half of our members are grain elevator/farm supply cooperatives. Many of these farm supply cooperatives engage agricultural chemical sales and application. These member-owned businesses are stakeholders for the pesticide programs coordinated by the Kansas Department of Agriculture (KDA).

We do believe that our members will benefit from the changes embodied in SB 394 as it will allow the KDA the ability to utilize appropriate information/training materials in addition to those available through Kansas State University (KSU). KSU has been an integral partner in providing information on pesticide safety through written materials, presentations, training courses and Extension. Their work with the agricultural producer and agribusiness sectors over the years is appreciated. We believe there will continue to be a role for KSU in these types of educational/training activities even after enactment of the proposal before you.

As we see it, this bill will allow KDA more options in advancing training. It can provide dollar savings if the state is able to access materials already published. It may allow for increased electronic delivery. It may also mean that KSU is not required to duplicate efforts of entities outside the KSU university system.

We do not believe all the informational resources needed by Kansas applicators will be found outside our state. We do think there will be Kansas specifics that may need to be incorporated into other materials or supplemental materials may need to be produced. But, if KDA finds that "someone else invented a wheel", then our valuable state/university resources will not need to be diverted into "re-inventing" another. Additionally, if other entities have already invested in updating certain training materials, and we do not have to duplicate those efforts, Kansas applicators may be able to receive the new information more expeditiously.

As such, we see the changes proposed in SB 394 as a common-sense approach that can allow the KDA, and their cooperative programming with KSU, additional cost-effective, time-efficient options. Thus, we ask you act favorable on SB 394.

If you have any questions regarding our testimony or position on this bill, please feel free to contact me at 785-220-4068.

Thank you.

*Senate Agriculture Committee  
January 26, 2010  
Attachment 4*



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The Mission of the Kansas Cooperative Council is to promote, support and advance the interests and understanding of agricultural, utility, credit and consumer cooperatives and their members through legislation and regulatory efforts, education and public relations.



*PUBLIC POLICY STATEMENT*

SENATE COMMITTEE on AGRICULTURE

RE: SB 394 – an act relating to pesticide education.

**January 26, 2010  
Topeka, Kansas**

**Testimony provided by:  
Brad Harrelson  
State Policy Director  
KFB Governmental Relations**

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Chairman Taddiken, and members of the Senate Committee on Agriculture, thank you for the opportunity to appear before you today. I am Brad Harrelson, State Policy Director—Governmental Relations for Kansas Farm Bureau. KFB is the state's largest general farm organization representing more than 40,000 farm and ranch families through our 105 county Farm Bureau Associations.

Kansas Farm Bureau is supportive of the Kansas Department of Agriculture and believes the agency should be a strong and vigorous advocate for production agriculture. Additionally, we understand the need for effective regulatory and educational programs provided primarily for the protection of the general public. Because the citizens of Kansas are beneficiaries of these regulatory programs it is appropriate that significant funding should come from state general funds.

We appear today as a neutral conferee, as we have no specific policy on this legislation. Furthermore, this testimony in no way should be taken as a comment on Kansas State University Extension or their involvement with the Pesticide Safety Education Program.

We do believe however, that increased access to up-dated, readily available educational tools may help relieve funding pressures that the program is currently experiencing. Thank you for the opportunity to appear before you and share the policy of our members. KFB stands ready to assist you as you consider this measure.



**Testimony on SB 393  
to  
The Senate Agriculture Committee**

**by Dave Starkey  
Chief Legal Counsel  
Kansas Department of Agriculture**

**January 26, 2010**

Good morning, Chairman Taddiken and members of the committee. I am Dave Starkey, chief legal counsel with the Kansas Department of Agriculture. I am here in support of Senate Bill 393.

The main provisions of the bill relate primarily to action taken on licenses and permits. The Kansas Administrative Procedure Act (KAPA) provides that a state agency may not revoke, suspend, modify, annul, withdraw, refuse to renew, or amend a license unless the state agency first gives notice and an opportunity for a hearing in accordance with that act. This assumes that the relevant statute expressly states that KAPA governs the administrative proceeding.

Many of the statutes which the department administers and enforces say licensing action can be taken only after "notice and hearing." If a licensing action is deemed warranted under those statutes, then a hearing is scheduled with a presiding officer from the Office of Administrative Hearings (OAH) and notice of the hearing is given to the licensee at the time the action is commenced. In some cases, the licensee does not appear or does not want the hearing. But, department personnel have to appear and be ready to proceed because the statutes require it. This process commits resources and incurs costs with OAH. The proposed change to "notice and opportunity for hearing" now exists in other statutes which KDA administers and enforces.

The final change is the implementation of a new statute under the Kansas dairy law that would allow the temporary suspension of a license or permit. It will apply primarily to milk producers and milk processing plants. Kansas has adopted the U.S. Food and Drug Administration's Grade A Pasteurized Milk Ordinance (PMO) to maintain an effective program for the prevention of milk borne disease. Kansas has adopted the PMO along with all other states to provide uniformity and high level of excellence of milk sanitation practice in the United States. The ordinance requires milk samples to be taken for lab tests. If there are repeated sanitation violations, the ordinance requires temporary suspension of the license until the sanitation issues are resolved. Ordinarily, facilities are in compliance within a very short period of time.

The requested revisions would make the statutes consistent with other similar statutes administered by the department, be consistent with the provisions of KAPA regarding licensure, would provide due process rights to a licensee, make the process more efficient, and reduce costs.

I will stand for questions at the appropriate time.

*Senate Agriculture Committee  
January 26, 2010  
Attachment 6*