

HB2387.Steve Hitchcock.2-16-21.Opp

House Judiciary Committee

Hearing on HB 2387 – February 16, 2021

Steve Hitchcock, Government Affairs – Kansas Agricultural Aviation Association

Chairman Patton and members of the committee:

I speak in opposition to HB2387 on behalf of the Kansas Agricultural Aviation Association. Our members are professional (commercially-licensed) aerial sprayers who serve as a support industry for Kansas agriculture. Our pilots treat hundreds of thousands of acres annually to protect and enhance Kansas cropland and pastures. On occasion, they even fight wildfires.

Various aspects of their work are regulated by several federal and state agencies. The regulatory supervision of their flying, however, is the responsibility of the FAA under the category known as Part 137.

Our opposition to HB2387 today starts with our concern that it unnecessarily, and perhaps even impermissibly, encroaches on the jurisdiction of the FAA. The FAA has the authority to revoke licenses and mete out punishment for violations of its standards – including issues related to impairment. A Kansas statute targeting the same issues risks being redundant and perhaps inconsistent.

A second concern arising from just a quick reading of HB2387 is regarding the lack of definition for probable cause as it applies to testing pilots for impairment. Criteria and procedures for law enforcement personnel are well-established for how probable cause is determined and acted upon on Kansas roadways. Applying those same criteria is, to put it mildly, “problematic” when it comes to establishing a reasonable level of observable activity to justify taking action. The logistics of “pulling over” a suspected offender would also not fit neatly into the observe and act protocols practiced on the highway. The level of knowledge and training of law enforcement personnel necessary to make them qualified assessors of aviation practices is also an area that merits thought.

A final concern is the abuse of the system possible if whatever is seen as credible in initiating action under the statute includes anonymous or even just unsolicited input from members of the public with no particular experience or expertise with aviation. Law enforcement personnel alerted to a hazardous driver on the road have an opportunity to add their own observations to the situation in order to assess it. The realities of rural aviation make a similar safeguard less practical and therefore heighten the skepticism of how a new statute would impact Kansas aviation.

Thank you for hearing our concerns and we would ask that HB2387 be voted down by the committee.

Steve Hitchcock, KAAA