

MINUTES OF THE SENATE AGRICULTURE COMMITTEE.

The meeting was called to order by Chairperson Derek Schmidt at 8:30 a.m. on February 28, 2001 in Room 423-S of the Capitol.

All members were present except:

Committee staff present:       Raney Gilliland, Legislative Research Department  
  Jill Wolters, Revisor of Statutes  
  Betty Bomar, Secretary

Conferees appearing before the committee:  
  Jamie Clover Adams, Secretary, Department of Agriculture  
  Todd Domer, Director of Communications, Kansas Livestock Association  
  Doug Wareham, Kansas Grain and Feed Association and the Kansas Fertilizer  
  and Chemical Association  
  Jarold W. Boettcher, Chairman, Fertilizer & Pesticide Regulations Task Force

Others attending:        See attached list

**SB 334 - Commercial feeding stuffs; seizures thereof**

Jamie Clover Adams, Secretary, Kansas Department of Agriculture (KDA), testified in support of **SB 334**, stating the legislation is the result of the stepped-up surveillance and prevention measures the KDA is taking as a result of the emerging issues in Europe regarding bovine spongiform encephalopathy (BSE). Feed is the first line of defense against BSE, and the KDA must do its part to protect Kansas consumers and the Kansas beef industry. The KDA enforcement plan includes the following: a memorandum outlining KDA's zero-tolerance policy regarding good manufacturing practices (GMP) inspections forwarded to renderers, feed mills and feedlots that mix feed; an increase in the KDA spending cap on the feeding stuffs fee fund to allow purchase of necessary laboratory equipment and implementation of increased surveillance measures; adoption of temporary emergency regulations adopting the most recent FDA regulations regarding GMPs and the ban on the use of mammal-derived protein byproducts in cattle and other ruminant feed; and inspections and reinspections which will commence as soon as the new laboratory equipment is installed.

**SB 334** gives the Secretary of Agriculture the authority to levy a civil penalty of not more than \$1,000 per violation which provides an additional enforcement tool to effectively implement the stepped-up BSE surveillance strategy. The legislation gives the Secretary the authority to seize in place any commercial feeding stuffs misbranded, adulterated or suspected to contain any substance or substances injurious to public health or the health of livestock; and is subject to the Kansas Administrative Procedures Act and the district courts. Current Commercial Feeding Stuffs law makes willful or wanton violation of the act a criminal misdemeanor and provides monetary penalties of no more than \$100 for the first violation, and between \$100 and \$500 for each subsequent violation. Current law also gives the Secretary seizure authority and allows products to be condemned, disposed of, or sold as the court may direct.

Ms. Adams stated the KDA envisions using this proposed legislation when a product is not labeled with the required precautionary statement or when a product may be commingled and thus adulterated. Suspect feed will be held in place while tests are performed at the KDA laboratory. The civil penalties provided for by **SB 334** are essential to ensure the success of BSE surveillance. (Attachment 1)

Todd Domer, Director of Communications, Kansas Livestock Association (KLA), testified in support of **SB 334**, stating the KLA supports any legislation that strengthens the KDA's ability to police the Commercial Feed Stuffs law. Mr. Domer stated the KLA and the Kansas Beef Council have put in place an aggressive action plan at the onset of heavy BSE coverage in the U.S. media. The strategy is centered around broad

distribution of factual information with the ultimate goal of putting consumers at ease by assuring them beef sold in the U.S. continues to be a wholesome, safe food.. ([Attachment 2](#))

Doug Wareham, Kansas Grain and Feed Association (KGFA), testified in support of **SB 334**, stating the bill is necessary in order to provide KDA with the appropriate tool to ensure compliance with the law and protect both the industry and the consuming public. ([Attachment 3](#))

Doug Wareham, Kansas Fertilizer and Chemical Association (KFCA), testified in support of **SB 334**, stating it provides the KDA with adequate enforcement tools such as civil penalties to ensure industry compliance, consumer protection and protection of the environment. The KFCA further request the Committee consider the KDA's need for civil penalty authority under the Kansas Commercial Fertilizer Law.

KFCA membership has grown increasingly concerned over the significant number of bulk liquid fertilizer storage tanks that require, but fail to be protected by, containment structures in Kansas. It is important to insure that products are not lost to ground or surface water from storage facilities. The technology to store and handle plant nutrient and crop protection products is continually improving and enabling users to do a better job of protecting the environment.

Mr. Wareham submitted proposed language that would provide the KDA with civil authority under the Kansas Commercial Fertilizer Law. KFCA recognizes it is not appropriate to attached the proposed language to **SB 334**, however, would appreciate the Committee's consideration in attaching the language to an appropriate bill. ([Attachment 4](#))

Jarold W. Boettcher, Chairman, Kansas Fertilizer and Chemical Association Fertilizer & Pesticide Regulations Task Force, testified in support of providing KDA the authority to levy civil penalties for violations of the Fertilizer regulations. ([Attachment 5](#))

The hearing was concluded.

The Committee commented on the incongruity of a \$1,000 civil penalty and a \$100 to \$500 criminal penalty. The Committee took no further action.

The meeting adjourned at 9:15 a.m.

The next meeting is scheduled for March 6, 2001.