

Approved: Eugene H. Shore 5-29-93  
Date

## MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairperson Eugene Shore at 9:08 a.m. on March 17, 1993 in Room 423-S of the Capitol.

All members were present except: Representative Lawrence - Excused  
Representative McClure - Excused  
Representative Swall - Excused

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

Conferees appearing before the committee:

Chairman Shore called the meeting to order and told committee members that written testimony from Loarn Bucl, one of yesterday's conferees, attachment #1, and information requested from Dale Lambley regarding crop consultant requirements and the agency fiscal note on **SB 335**, attachment #2, have been distributed.

Chairman Shore asked for discussion on **SB 71**, **SB 79** and **SB 136**.

### **SB 71: Bonding grain storage warehouses.**

Chairman Shore explained that Lee Hamm, Kansas Grain Inspection Department, has asked for an amendment to place a \$500,000 cap on bonding in order to be consistent with federal law, attachment #3. Representative Powers made a motion to amend SB 71 to include the \$500,000 cap. Representative Rezac seconded the motion. The motion carried. There was no further discussion. Representative Powers made a motion to pass SB 71 favorably as amended. Representative Bryant seconded the motion. The motion carried.

### **SB 79: Aquaculture advisory council membership and fund use.**

Representative Freeborn made a motion to pass SB 79 favorably. Representative Rezac seconded the motion. The motion carried.

### **SB 136: Renaming the oil inspection law the petroleum products inspection law.**

Representative Reinhardt made a motion to pass SB 136 favorably. Representative Flower seconded the motion. The motion carried.

Chairman Shore said there had been several amendments requested on **SB 335** so committee members could study the bill and there will be discussion and possible action on that bill tomorrow. The meeting adjourned at 9:15am. The next meeting is scheduled for March 18, 1993.

STATEMENT OF  
LOARN BUCL  
BEFORE THE HOUSE AGRICULTURE COMMITTEE  
REGARDING S.B. 335  
REP. EUGENE SHORE, CHAIRMAN  
MARCH 16, 1993

Mr. Chairman and Members of the Committee, I am Loarn Bucl and I serve as the Chairman of the Legislative Committee of the Kansas Association of Independent Crop Consultants. I apologize for not having any written testimony as I drove 320 miles from Sublette, Kansas and got in at 1:00am this morning.

I have met with Mitch Counce with Servi-Tech, and together we worked on the changes he proposed to the Committee. I also contacted the Kansas State Board of Agriculture and the Kansas Fertilizer and Chemical Association regarding these changes. The Kansas Association of Independent Crop Consultants supports the amendments Mitch proposed.

The original intent of this legislation was to make agricultural crop consultants accountable for their recommendations and to stop off-label, illegal recommendations. This is what the Kansas Association of Independent Crop Consultants wants and supports.

We support the amended version of S.B. 335.

HOUSE AGRICULTURE  
3-17-93  
ATTACHMENT # 1



# THE KANSAS STATE BOARD OF AGRICULTURE

Sam Brownback, Secretary  
Donald L. Jacka, Assistant Secretary

901 S. Kansas Ave.,  
Topeka, KS 66612

March 16, 1993

Representative Eugene Shore, Chairman  
House Agriculture Committee  
State Capital  
Topeka, KS 66612

Dear Mr. Chairman:

During committee hearings on S.B. 335 (Crop Consultant Registration) questions were raised concerning the industrial and testing requirements placed upon persons wishing to become Kansas certified pesticide applicators. Exam requirements are outlined in the Kansas Pesticide Law and defined in more detail by regulation. Attached is a copy of 2-2443 which outlines the subject matter for commercial applicator testing. I am also attaching copies of regulations KAR 4-13-13 and 4-13-14 which provide additional detail on testing of private applicator and the various use categories of commercial pesticide applicators.

Enclosed also is a copy of the fiscal note submitted by the agency on S.B. 335.

Yours truly,

Dale Lambley  
Kansas State Board of Agriculture

JDL:crb  
Attachments

HOUSE AGRICULTURE  
3-17-93  
ATTACHMENT #2

2-2443a. Same; nination; reciprocity; fees; acts included i examination. An applic. for a commercial applicator's certificate shall show upon written examination that the applicant possesses adequate knowledge concerning the proper use and application of pesticides in the categories for which the applicant has applied. Upon the recommendation of the secretary, a commercial applicator who holds a current certificate to apply pesticides commercially in any other state or political subdivision of the United States may be exempted from examination for certification in this state upon payment of proper fees, which shall not be less than any comparable fees charged by the commercial applicator's state to Kansas certificate holders, if such state or political subdivision's requirements for certification were the full equivalent of the requirements of this state at the time it was issued and if the proper authorities of the state from which the applicant holds such commercial applicator's certificate, or its equivalent, agree to accept on an equal basis holders of certificates issued by the authorities of this state.

Applicants shall submit with each application an examination fee per category in which the applicant is to be examined which fee is fixed by rules and regulations adopted by the state board of agriculture, except that such fee shall not exceed \$25 per category in which the applicant is to be examined. The examination fee in effect on the day preceding the effective date of this act shall continue in effect until the state board of agriculture adopts rules and regulations fixing a different fee therefor under this section. Applicants who fail to pass the examination may reapply and take another examination upon paying another examination fee per category in which the applicant is to be reexamined which fee is fixed by rules and regulations adopted by the state board of agriculture, except that such fee shall not exceed \$25 per category in which the applicant is to be reexamined. The reexamination fee in effect on the day preceding the effective date of this act shall continue in effect until the state board of agriculture adopts rules and regulations fixing a different fee therefor under this section. The examination shall include, but is not limited to, the following:

- (a) The proper use of the equipment.
- (b) The hazards that may be involved in applying the pesticides, including:
  - (1) The effect of drift of the pesticides on adjacent and nearby lands and other nontarget organisms;
  - (2) the proper meteorological conditions for the application of pesticides and the precautions to be taken therewith;
  - (3) the effect of the pesticides on plants or animals in the area, including the possibility of damage to plants or animals or the possibility of illegal pesticide residues resulting on them;
  - (4) the effect of the application of pesticides to wildlife in the area, including aquatic life;
  - (5) the identity and classification of pesticides used and the effects of their application in particular circumstances; and
  - (6) the likelihood of contamination of water or injury to persons, plants, livestock, pollinating insects and vegetation.
- (c) Calculating the concentration of pesticides to be used.
- (d) Identification of common pests to be controlled and damages caused by such pests.
- (e) Protective clothing and respiratory equipment for handling and application of pesticides.
- (f) General precautions to be followed in the disposal of containers as well as the cleaning and decontamination of the equipment which the applicant proposes to use.
- (g) Applicable state and federal pesticide laws and regulations.
- (h) Any other subject which the secretary deems necessary.



4-13-13. Commercial applicator examination. (a) Examinations for commercial applicator certification shall test the applicant's knowledge in the following subjects in addition to those subjects set out in K.S.A. 2-2443a (a) through (h).

(1) Each examination shall test the applicant's practical knowledge of pesticide application including:

(A) The general format and terminology of pesticide labels and labeling, the instructions, warnings, symbols and other information appearing on pesticide labels, the classification designation on pesticide labels and the necessity of using each pesticide in a manner which is consistent with information and instructions on its label;

(B) safety factors, including pesticide toxicity, types and causes of pesticide accidents, precautionary measures which are necessary to guard against injury to the applicator and other individuals, symptoms of pesticide poisoning, first aid and other procedures to follow in case of a pesticide accident, proper identification, storage, transportation of, mixing and handling of pesticides, prevention of and cleanup of pesticide spills and disposal of pesticide containers;

(C) the potential for damage to the environment from use and misuse of pesticides as influenced by such factors as types of terrain, soil and other substrata and drainage patterns;

(D) pest development and biology as it may be relevant to pest identification and control;

(E) types of pesticides and pesticide formulations used, compatibility, synergism, persistence and animal and plant toxicity of pesticides, practices that cause pesticide resistance and dilution procedures;

(F) types of equipment used and the limitations of each, equipment use, maintenance and calibration;

(G) proper application techniques for various pesticides and formulations of pesticide in given situations, relationship of placement of pesticides to proper use, unnecessary pesticide use and pesticide misuse, and prevention of pesticide loss into the environment through drift and other means; and

(H) requirements which must be met by a certified applicator in supervising noncertified applicators of restricted pesticides, including practical knowledge of federal and state supervisory requirements; requirements found on labeling; requirements regarding verifiable instruction of the noncertified applicator and availability of certified applicator during application; and any added restrictions which may be imposed for specific pesticides through labeling including the required physical presence of the supervising applicator during the application.

(2) Each examination shall test the applicant's practical knowledge of the category and subcategory of applicator certification in which the applicant wishes to be certified.

(A) Agricultural pest control.

(i) Each examination for agricultural plant pest control applicators shall test the applicant's practical knowledge of the crops grown in Kansas and the specific pests commonly associated with these crops, potential soil and water damage, preharvest intervals, re-entry intervals, phytotoxicity, environmental contamination, non-target injury and potential adverse effects on the community which are related to the use of restricted pesticides in agricultural areas.

(ii) Each examination for agricultural animal pest control applicators shall test the applicant's practical knowledge of Kansas agricultural animals and their pests, specific pesticide toxicity levels, residue potential and relative hazards associated with various pesticide formulations, application techniques, ages of animals, stress and extent of treatment.

(iii) Each examination for wildlife damage control applicators shall test the applicant's practical knowledge of vertebrate species pests and damage associated with each, methods useful in damage prevention, products used in damage control, the potential for direct poisonings of nontarget species, the potential for secondary poisonings, effects upon threatened and endangered species, specific pesticide toxicity and residue levels, and methods of application necessary to minimize hazards to humans, environment, pets, and domestic animals.

(B) Forest pest control. Each examination for forest pest control applicators shall test the applicant's practical knowledge of types of forests, forest nurseries and forest seed production in Kansas and of the pests associated with them, pest cycles and population dynamics as they influence control programming, biotic agents and their relative vulnerability to pesticides, and proper use of specialized equipment as it relates to adjacent land use.

(C) Ornamental and turf pest control.

(i) Each examination for ornamental pest control applicators shall test the applicant's practical knowledge of pest and pesticide problems associated with the production of ornamental trees, shrubs and flowers in Kansas, potential phytotoxicity problems related to the large variety of plants in treated areas, pesticide persistence beyond the intended period of control, and application methods which minimize hazards to humans, pets and domestic animals.

(ii) Each examination for turf pest control applicators shall test the applicant's practical knowledge of pest and pesticide problems associated with the production of turf in Kansas, potential phytotoxicity problems related to the wide variety of plants in treated areas, pesticide persistence beyond the intended period of control and application methods which minimize hazards to humans, pets and domestic animals.

(iii) Each examination for interior landscape pest control applicators shall test the applicant's practical knowledge of pest and pesticide problems associated with the production and maintenance of houseplants and the ornamental plants kept or located within structures occupied by humans including but not limited to houses, apartments, offices, shopping malls, other places of business and other dwelling places. The examination shall also test knowledge of potential phytotoxicity problems related to treatment of plants in enclosed areas, pesticide persistence beyond the intended period of control and application methods that minimize hazards to humans, pets and domestic animals.

(D) Seed treatment. Each examination for seed treatment applicators shall test the applicant's practical knowledge of the types of seeds that require protection against pests, factors which may affect germination, including seed coloration, carriers and surface active agents, hazards associated with handling, storing, mixing and misuse of treated seeds and proper disposal of unused treated seed.

(E) Aquatic pest control. Each examination for aquatic pest control applicators shall test the applicant's practical knowledge of secondary effects caused by improper application rates, incorrect formulations, and faulty aquatic pesticide applications; knowledge of various water use situations and the potential of downstream effects; knowledge of potential effects on plants, fish, birds, beneficial insects and other organisms in the aquatic environment; and knowledge of the principles of limited area application.

(F) Right-of-way pest control. Each examination for right-of-way pest control applicators shall test the applicant's practical knowledge of the wide variety of environments crossed by rights-of-way, problems of runoff, drift and excessive foliage destruction, the nature of herbicides, the need for containment of herbicides within the right-of-way area and the impact of applicator's activities on adjacent areas and communities.



(G) Industrial, institutional, structural and health related pest control

(i) Each examination for wood-destroying pest control applicators shall test the applicant's practical knowledge of wood-destroying pests, their life cycles, pesticide formulations appropriate for their control, methods of application that avoid exposure of people and pets and specific factors which may lead to hazardous conditions, including continuous exposure to the pesticide use.

(ii) Each examination for stored products pest control shall test the applicant's practical knowledge of pests found in stored grain and food processing areas, their life cycles, pesticide formulations appropriate for their control, methods of application that avoid contamination of food products and exposure of people, and specific factors which may lead to a hazardous condition, including continuous exposure.

(iii) Each examination for industrial weed control applicators shall test the applicant's practical knowledge of weed pests found in industrial areas, pesticide formulations appropriate for their control, methods of application that avoid contamination of habitat and exposure of people and pets, and environmental conditions particularly related to this activity.

(iv) Each examination for health-related pest control applicators shall test the applicant's practical knowledge of vector-disease transmission as it relates to and influences application programs, pests which adversely affect public health, their life cycles and habitats and the variety of environments in which they are encountered.

(v) Each examination for structural pest control applicators shall test the applicant's practical knowledge of the wide variety of pests found in buildings, including their life cycles; types of pesticide formulations appropriate for their control and methods of application that avoid contamination of food, damage and contamination of habitat and exposure of people and pets; specific factors which may lead to a hazardous condition, including continuous exposure in the various situations encountered in this category; and environmental conditions particularly related to this activity.

(vi) Each examination for wood preservation and wood-products treatment applicators shall test the applicant's practical knowledge of pest problems and pests associated with wood degradation, including their life cycles, types of pesticide formulations appropriate for their control, methods of application, application hazards and safety, proper means of container storage, container and waste disposal, procedures to contain spills and to avoid contamination and exposure of the environment including people, domestic animals and wildlife.

(H) Public health pest control. Each examination for public health pest control applicators shall test the applicant's practical knowledge of vector-disease transmission as it relates to and influences application programs, pests which adversely affect public health, their life cycles and habitats, the variety of environments in which they are encountered and the importance of such non-chemical control methods as sanitation, waste disposal and drainage.

(I) Regulatory pest control.

(i) Each examination for noxious weed control applicators shall test the applicant's practical knowledge of pest weeds as regulated by the Kansas noxious weed law, the potential impact on the environment of restricted use pesticides used in suppression and eradication programs, and factors influencing introductions, spread, and population dynamics of those pest weeds.

(ii) Each examination for regulated pest control applicators shall test the applicant's practical knowledge of federal and state-regulated pests, applicable laws relating to quarantine and other regulations regarding pests, the potential impact on the environment of restricted use pesticides used in suppression and eradication programs, factors influencing introductions, spread and population dynamics of relevant pests.

(J) Demonstration and research pest control applicators. Each examination for demonstration and research pest control applicators will test the applicant's practical knowledge of the many different pest problems encountered in the course of activities associated with demonstration, field research and method improvement work, pesticide-organism interactions and the importance of integrating pesticide use with control methods. Such applicators shall meet the examination requirements for application in the other categories which are applicable to their particular activity.

(b) Any emergency examination administered to applicants for temporary commercial applicator permits under K.S.A. 2-2442 shall be the same examination as is required under K.S.A. 2-2443 and the preceding portions of this regulation.

(c) A grade of 75% correct answers shall be required to pass any commercial applicator examination.



4-13-14. Private applicator examination. Initial examinations for certified private applicators shall be taken in the presence of a representative of the Kansas State Board of Agriculture or the Kansas State University extension service. The applicant for this certification is required to answer 75% of the questions correctly to pass the examination.

Examinations for private applicator certification shall test the applicant's knowledge in those subject areas set out in K.S.A. 2-2445 involving pest control practices associated with the applicant's agricultural operation and the applicant's legal responsibility as a certified applicator of restricted pesticides. The applicant will be tested to determine the applicant's ability to:

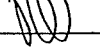
- (1) Recognize common pests to be controlled and damage caused by them;
- (2) read and understand the label and labeling information including the common name of the pesticide he applies; pest or pests to be controlled; timing and methods of application; safety precautions; any preharvest re-entry restrictions; and any specific disposal procedures;
- (3) apply pesticides in accordance with label instructions and warnings, including the ability to prepare the proper concentration of pesticide to be used under particular circumstances taking into account such factors as area to be covered, speed at which application equipment will be driven, and the quantity dispersed in a given period of operation;
- (4) recognize local environmental situations that must be considered during application to avoid contamination;
- (5) recognize poisoning symptoms and procedures to follow in case of a pesticide accident; and
- (6) understand federal and state supervisory requirements, including labeling, which must be met by a certified private applicator in supervising non-certified application of restricted pesticides. This includes verifiable instruction of the applicator, availability during application and added restrictions which may be imposed for specific pesticides through labeling. Such restrictions may include the required physical presence of the supervising applicator during the application.

FISCAL SUMMARY INFORMATION.

KANSAS STATE BOARD OF AGRICULTURE  
109 SW 9th Street  
Topeka; Kansas 66612  
(913) 296-0897

Bill Number: Senate Bill 335

As Amended by: \_\_\_\_\_

Donald L. Jacka, Jr.   
Prepared By: \_\_\_\_\_

Assistant Secretary  
Title

02-23-93  
Date

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Agency Explanation of Estimated Fiscal Impact

NOTE: Use this section to explain the assumptions and rationale employed in determining the estimated fiscal impact of the attached bill. Please note if this bill's fiscal impact is contained, in whole or in part, in the Governor's Budget Report. (Use additional sheets as necessary.)

The registration of agriculture crop consultants represents a totally unique clientele under the Kansas Pesticide Law. Crop consultants are generally not pesticide applicators and have not been covered by the statute. It is expected that if Senate Bill 335 becomes effective this spring, approximately 130 consultants will be registered in FY 1994. As the rule becomes better understood and as interdisciplinary pressures develop, the number of registrations should increase to 150 in FY 1995 and stabilize at 160 in FY 1996. These estimates are conservative and are based upon current farming conditions. With increased regulation and crop production technology, the number of crop consultants in Kansas may increase 25% in the next three years.

A full time Keyboard Operator I position is requested. Currently the Plant Health Division does not have adequate personnel resources to properly implement this program. During the past decade the clerical workload for administration of the various pesticide related laws has increased substantially more than the personnel resources available. As a result the agency has been unable to provide the level of services expected by both the regulated and general public. Increased pressure has been put on the agency by both Federal (mostly the EPA) and local governments to address growing concerns about consumer protection, public health, safety, and environmental effects of pesticides. Increased technology and new developments in management of pests are important factors that reinforce the need to provide the Key Board Operator I position.

To properly implement Senate Bill 335 a new database must be created and receipting procedures developed. Notification of registration requirements will require approximately 175 mailings. It is expected that in FY 1994 130 registration certificates/letters will be mailed. In addition a newsletter will be printed and mailed once a year to the registrants. This newsletter will include a report of data collected from the completed registration forms along with important information relating to the regulation of pesticides.

Enforcement of this statute will be done primarily through the investigation of pesticide complaints and inspection of pesticide users. Monitoring for registration compliance will be done primarily by the crop consultants themselves.

REVENUE IMPACT BY FUND

	<u>FY 1994</u>	<u>FY 1995</u>	<u>FY 1996</u>
Pesticide Use Fees	1,950	2,250	2,400
TOTAL REVENUE	\$ <u>1,950</u>	\$ <u>2,250</u>	\$ <u>2,400</u>

EXPENDITURE IMPACT BY FUND

State General Funds	22,545	18,991	19,343
Pesticide Use Fees	1,950	2,250	2,400
TOTAL EXPENDITURES	\$ <u>24,495</u>	\$ <u>21,241</u>	\$ <u>21,743</u>

EXPENDITURE IMPACT BY OBJECT

SALARIES & WAGES	\$ <u>19,052</u>	\$ <u>19,634</u>	\$ <u>20,056</u>
Communications	300	320	340
Printing	27	27	27
Rents			
Repair			
Travel	1,000	1,100	1,150
Other Contractual			
TOTAL CONTRACTUAL	\$ <u>1,327</u>	\$ <u>1,447</u>	\$ <u>1,517</u>
Clothing			
Maint. Supplies			
Prof. Supplies			
Office Supplies	150	160	170
Other Supplies			
TOTAL COMMODITIES	\$ <u>150</u>	\$ <u>160</u>	\$ <u>170</u>
CAPITAL OUTLAY	\$ <u>3,966</u>	\$ <u>0</u>	\$ <u>0</u>
TOTAL OPERATING EXPENDITURES	\$ <u>24,495</u>	\$ <u>21,241</u>	\$ <u>21,743</u>

SALARIES AND WAGES SUMMARY

<u>Classification</u>	<u>Salary Range</u>	<u>No.</u>	<u>Amount</u>	<u>No.</u>	<u>Amount</u>	<u>No.</u>	<u>Amount</u>
Keyboard Operator I	11	1	14,436	1	14,964	1	15,348
Total Benefits			4,616		4,670		4,708
TOTAL SALARIES & WAGES		1	19,052	1	19,634	1	20,056

CAPITAL OUTLAY

<u>Item</u>	<u>No.</u>	<u>Unit Cost</u>			
486 Computer	1	2,154	2,154		
Printer w/Sheet Feeder	1	1,268	1,268		
Desk	1	444	444		
Chair	1	200	200		
File Cabinet	1	200	200		
Computer Work Station	1	130	130		
Printer Stand	1	100	100		
TOTAL CAPITAL OUTLAY		\$ <u>3,966</u>	\$ <u>0</u>	\$ <u>0</u>	



**SENATE BILL No. 71**

By Committee on Agriculture

1-22

AN ACT concerning grain storage; relating to warehouse bonding and receipts; amending K.S.A. 34-240, 34-249a and 34-2,100 and K.S.A. 1992 Supp. 34-229 and repealing the existing sections; also repealing K.S.A. 1992 Supp. 34-248a.

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

Section 1. K.S.A. 1992 Supp. 34-229 is hereby amended to read as follows: 34-229. (a) Every applicant for a public warehouse license shall promptly, upon notification by the director of the amount of bond required, file with the director a bond with good corporate surety qualified under the laws of the state of Kansas in a sum computed by adding together: (1) The amount, up to \$200,000, obtained by multiplying the closing cash grain price per bushel, less \$.25, of No. 2 hard ordinary wheat in Kansas City on the first Monday in April of each year times 15% of the warehouse capacity; and (2) the amount obtained by multiplying that cash grain price per bushel less \$.25 times 1% of the warehouse capacity in excess of that capacity used to compute the first \$200,000 of the amount of the bond. The amount of the bond to be furnished for each warehouse shall be \$.20 per bushel for the first 1,000,000 bushels of licensed capacity; \$.15 per bushel for the next 1,000,000 of licensed capacity; and \$.10 per bushel for all licensed capacity over 2,000,000 bushels. ~~In no event shall the bond be for an amount less than \$10,000.~~

Except as provided further,

nor more than \$1,<sup>5</sup>000,000

(b) If an applicant for a license or a licensee at any time does not have the total net worth required by K.S.A. 34-228 and amendments thereto, an amount equal to the deficiency shall be added to the amount of the bond required by subsection (a).

(c) The bond shall be in favor of the state of Kansas for the benefit of all persons interested, their legal representatives, attorneys or assigns and shall be conditioned on the faithful performance of all the licensee's duties as a public warehouseman and such additional obligations as assumed by the warehouseman under contracts with a federal agency relating to storage of grain in each warehouse. Any person injured by the breach of any obligation of the warehouseman

HOUSE AGRICULTURE  
3-17-93  
ATTACHMENT # 3