

Approved: _____
Date

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairperson Eugene Shore at 9:00 a.m. on January 18, 1994 in Room 423-S of the Capitol.

All members were present except : Representative Goodwin - Excused
Representative Lawrence - Excused
Representative Lloyd - Excused
Representative Rutledge - Excused

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

Conferees appearing before the committee: Jamie Clover, Kansas Grain & Feed Association
Ken Wilke, Department of Agriculture

Chairman Shore called the meeting to order and asked committee members to review the January 11, 1994 minutes. If no corrections are received by 4pm today, the minutes will be considered approved. Committee members were reminded that tomorrow's meeting would be a tour of the Kansas Metrology Lab and that the purpose of today's meeting was the introduction of bills.

Jamie Clover, Kansas Grain & Feed Association, attachment #1, requested a change in the Kansas Feed Law (K.S.A. 2-1001-1013) to substitute a firm license program for the current product registration requirements.

Representative Reinhardt made a motion to introduce KGFA's request as a committee bill. Representative Bryant seconded the motion. The motion carried.

Chairman Shore explained the Governor's office has sent a proposal to be introduced regarding the make-up of the State Fair Board, although we do not have copies available today. Representative Alldritt moved that we introduce that proposal as a committee bill. Representative Correll seconded the motion. The motion carried.

Chairman Shore proposed a bill be introduced concerning the settlement of damages due to mineral exploration, specifically to settle or propose settlement prior to drilling activities. Representative Rezac made a motion to introduce this as a committee bill. Representative Neufeld seconded the motion. The motion carried.

Ken Wilke, Department of Agriculture, attachment #2, proposed Weights And Measures Act revisions dealing with electronic scanners. The proposed bill is in response to industry problems in this area and would provide specific authority for checking the veracity of point of sale systems and electronic scanners. Discussion followed. Representative Reinhardt made a motion to introduce this as a committee bill. Representative Neufeld seconded the motion. The motion carried.

Referring to a hearing at the Department of Agriculture last week, Representative Gatlin voiced his concern that Open Meetings Act guidelines may not have been properly followed. Mr. Wilke said he learned of this hearing after the fact, but steps have been taken to remedy this in the future.

The meeting adjourned at 9:25am. The next meeting is scheduled for January 19, 1994.

KANSAS FEED LAW CHANGES NEEDED

ISSUE

Current law (K.S.A. 2-1001-1013) requires feed manufacturers to register all products sold in the state with the Division of Inspections of the Department of Agriculture. This requires feed companies to submit each product label to the Department prior to sale and gain Department approval. Each product label is reviewed by the Division of Inspections.

KGFA PROPOSAL

KGFA recommends changing the statute to substitute a firm license program for the current product registration requirements.

BACKGROUND

The feed program is entirely fee funded, bringing in more than \$400,000 to the Department in FY93. KGFA does not advocate any change in the tonnage tax. The replacement of firm licensing for product registration is currently under consideration by the American Association of Feed Control Officials (AAFCO). If approved, it will be included in the AAFCO model feed bill. Firm licensing has replaced product registration in 15 states, most notably Nebraska and Iowa.

Why Change?

KGFA believes that firm licensing is more cost-effective for both the agency and feed manufacturers for several reasons.

Market diversification in the feed industry has generated a proliferation of feed products. Feed manufacturers are spending increasing amounts of time and money sending labels to Topeka for approval.

Resources currently used by the Department of Agriculture to review labels could be shifted to other more meaningful activities if firm licensing became law. KGFA believes that more resources for outreach and education, as well as increased emphasis on quality control and compliance are a better use of feed fee dollars than the current system.

Firm licensing would also increase resources available at feed mills that could, if necessary, be used to increase efforts to continue to ensure a safe, high quality product.

One of the major reasons for product registration is to insure products are properly labeled, label guarantees are calculated correctly and that the consumer is getting what is stated on the label. KGFA believes Kansas feed manufacturers understand what is required on a feed label and are providing correctly labeled product. Consequently, buyers are given the same amount of protection with random sampling of product and labels as under the current system. Further, under current federal law, food product labels for human consumption are not reviewed before they go into commerce.

HOUSE AGRICULTURE
1-18-94
Attachment #1

WEIGHTS AND MEASURES ACT REVISIONS
ELECTRONIC SCANNERS

Section 1. K.S.A. 83-201 is hereby amended to read as follows: 83-201.

As used in this act:

(a) "Weights and measures" means all weights and measures of every kind, instruments and devices for weighing and measuring, and any appliance and accessories associated with any or all such instruments and devices and any point of sale system.

(b) "Weight" as used in connection with any commodity means net weight, except if the label declares that the product is sold by drained weight, the term means net drained weight.

(c) "Correct" as used in connection with weights and measures means conformance to all applicable requirements of this act.

(d) "Primary standards" means the physical standards of the state which serve as the legal reference from which all other standards and weights and measures are derived.

(e) "Secondary standards" means the physical standards which are traceable to the primary standards through comparisons, using acceptable laboratory procedures, and used in the enforcement of weights and measures laws and rules and regulations.

(f) "Person" means individuals, partnerships, corporations, companies, societies and associations.

(g) "Sale from bulk" means the sale of commodities when the quantity is determined at the time of sale.

(h) "Package" means any commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale.

(i) "Drained weight" means the weight of the solid or semisolid product representing the contents of a package or container obtained after a prescribed method for excluding the liquid has been employed.

(j) "Secretary" means the secretary of the state board of agriculture or the secretary's authorized representative.

(k) "Measuring device" includes all weights, scales, beams, measures of every kind, instruments and mechanical devices for weighing or measuring, and any appliances and accessories connected with any or all such instruments.

(l) "Point of sale system" means any combination of a cash register or other devices, or system, such as a scanner, capable of recovering stored information related to the price or computing the price of any individual item which is sold or offered for sale at retail. A point of sale system may also include or be attached or connected to a weighing or measuring device.

(m) "Scanner" means any electronic system that employs a laser bar code reader to retrieve product identity, price or other information stored in a computer memory.

Section 2. K.S.A. 1992 Supp. 83-206 is hereby amended to read as follows: 83-206.

In the administration of the weights and measures inspection program, the secretary shall:

(a) Administer and enforce the provisions of this act.

(b) Conduct investigations to ensure compliance with this act.

(c) Delegate to appropriate personnel any of these responsibilities for the proper administration of this act.

(d) Test annually the standards of weight and measure used by any city or county within the state, and approve the same when found to be correct.

(e) Inspect and test weights and measures kept, offered or exposed for sale.

(f) Inspect and test, to ascertain if they are correct, weights and measures and point of sale systems commercially used: (1) In determining the weight, measure or count of commodities or things sold, or offered or exposed for sale on the basis of weight, measure or count; ~~or~~ (2) in computing the basic charge or payment for services rendered ~~on the basis~~ of weight, measure or count; or (3) in recovering stored information related to the price of any item or commodity which is sold or offered for sale at retail.

(g) Approve for use, and may mark, such weights and measures as the secretary finds to be correct, and reject and mark as rejected such weights and measures as the secretary

finds to be incorrect. Weights and measures that have been rejected may be seized if not corrected within the time specified by the secretary or if used or disposed of in a manner not specifically authorized. The secretary shall reject and may seize the weights and measures found to be incorrect that are not capable of being made correct.

(h) Weigh, measure or inspect packaged commodities kept, offered or exposed for sale, sold, or in the process of delivery, to determine whether they contain the amounts represented and whether they are kept, offered or exposed for sale in accordance with this act or rules and regulations promulgated pursuant thereto. In carrying out the provisions of this section, the secretary shall employ recognized sampling procedures as are designated in the national institute of standards and technology handbook 130, as published on January 1, 1991, unless a later edition is adopted by a rule and regulation promulgated pursuant to this act.

(i) Allow reasonable variations from the stated quantity of contents, which shall include those caused by loss or gain of moisture during the course of good distribution practice.

(j) Perform such other duties as may be necessary to carry out the provisions of this act or as may be otherwise authorized by law.

Section 3. K.S.A. 1992 Supp. 83-207 is hereby amended to read as follows: 83-207. The state board of agriculture may adopt rules and regulations necessary for the administration and enforcement of the provisions of this act. As a part of such rules and regulations, the state board of agriculture shall adopt standards setting forth specifications, tolerances and other technical requirements for all weights, measures and weighing and measuring devices, and point of sale systems. These specifications, tolerances and other technical requirements shall conform, insofar as practicable, to the specifications, tolerances and other technical requirement for weights, measures and weighing and measuring devices established by the national institute of standards and technology. The state board of agriculture shall prescribe by rule and regulation the appropriate term or unit of weight or measure to be used whenever the secretary determines in the case of a specific commodity that an existing practice of declaring the quantity by weight, measure, numerical count, or combination

thereof, does not facilitate value comparisons by consumers, or that such practice offers an opportunity for consumer confusion.

Section 4. K.S.A. 83-219 is hereby amended to read as follows: 83-219(a)It shall be unlawful for any person:

(1) To offer or expose for sale, or to sell or otherwise dispose of any weight, measure or weighing or measuring device that is false or which has been rejected except under written authorization of the secretary or an authorized inspector;

(2) to use a weight, measure or weighing or measuring device that is false, or that does not conform to the authorized standard for determining the quantity of any commodity or article of merchandise, for the purpose of:

(A) Buying or selling any commodity or thing,

(B) computation of any charge for services rendered on the basis of weight or measure,

(C) determining of weight or measure, either when a charge is made for such determination or where no charge is made for use of such weight, measure, weighing or measuring device;

(3) to break or remove any tag, mark or seal placed on any weighing or measuring device by the secretary, an authorized representative of the secretary, an authorized inspector or a county or city inspector of weights and measures, without specific written authorization from the proper authority or to use a weighing or measuring device after the lapse of 30 days following the placing of a rejection tag thereon by the secretary, or an authorized representative of the secretary or any authorized inspector, unless further extension of time for any repair purposes is first obtained from the secretary;

(4) to sell, offer or expose for sale, less than the represented quantity of any commodity, thing or service;

(5) to take or attempt to take more of the represented quantity of any commodity, thing or service when the buyer furnishes the weight, measure or weighing or measuring device by which the amount of any commodity, thing or service is determined;

(6) to keep for the purpose of sale, or to offer or expose for sale, or to sell any commodity in a manner contrary to the law or contrary to any rule and regulation;

(7) to use in retail trade, except in preparation of packages of merchandise put up in advance of sale, a weighing or measuring device that is not so positioned that its indications may be accurately read and the weighing or measuring operation observed from some position that may reasonably be assumed by a customer;

(8) to violate any of the provisions of this act for which a specific penalty is not provided;

(9) to sell or offer for sale, or use or possess for the purpose of selling or using any device or instrument to be used or calculated to falsify any weight or measure;

(10) to dispose of any rejected weight or measure in a manner contrary to law or rules and regulations;

(11) to expose for sale, offer for sale or sell any commodity in any container where the contents of the container fall below such reasonable standard of fill as may have been prescribed for the commodity in question by the secretary- ;

(12) to misrepresent the price of any commodity or service sold, offered exposed , or advertised for sale by weight measure or count, nor represent the price in any manner calculated or tending to mislead or in any way deceive any person;

(13) to misrepresent, or represent in a manner calculated or tending to mislead or deceive an actual or prospective purchaser, the price of an item offered, exposed, or advertised for sale at retail;

(14) to compute or attempt to compute at the time of sale of an item, a value which is not a true extension of a price per unit which is then advertised, posted or quoted; and

(15) to charge or attempt to charge, at the time of sale of an item or commodity, a value which is more than the price which is advertised, posted or quoted.

(b) For the purpose of paragraph (4) of subsection (a), the selling and delivery of a stated quantity of any commodity shall be prima facie evidence of representations on the part of the seller that the quantity sold and delivered was the quantity bought by the purchaser. For the purposes of paragraphs (4) and (5) of subsection (a), a slight variation from the

stated weight, measure or quantity, within authorized tolerances, is permissible for individually packaged commodities if such variation is as often over, as it is under, the correct weight, measure or quantity stated.

Section 5. K.S.A. 83-201, 83-219 and K.S.A. 1992 Supp 83-206 and 83-207 are hereby repealed.

Section 6. This act shall take effect and be in force from and after its publication in the statute book.