

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairperson Eugene Shore at 9:00 a.m. on February 22, 1994 in Room 423-S of the Capitol.

All members were present except: Representative Lawrence - Excused  
Representative Reinhardt - 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: Larry Woodson, Department of Agriculture  
De Vern Phillips, Department of Agriculture  
Ken Wilke, Department of Agriculture  
Jamie Clover Adams, Kansas Grain & Feed Association

Chairman Shore called the meeting to order and opened the hearing on **HB 3023**: weights and measures division shall also enforce standards for point-of-sale systems.

PROPOSERS:

Larry Woodson, Director, Division of Inspections, attachment #1, said this bill addresses technology changes in the industry and will provide the agency with clear authority to inspect and regulate point-of-sale or electronic scanners. Current law addresses weighing and measuring devices, but does not speak to point-of-sale systems such as scanners. The Weights and Measures program is actively involved in checking scanners, but this bill would legalize their activities and provide appropriate language in the unlawful acts section. Compliance action is deemed appropriate when accuracy falls below 95%. Mr. Woodson requested further amendments to K.S.A. 83-304 and K.S.A. 83-404 to provide stop use authority on certain devices that have not been inspected or tested recently.

De Vern Phillips, State Sealer, Division of Inspections, and Mr. Woodson answered questions regarding the number of service companies available to inspect and/or test devices, how scanners are programmed, statewide compliance accuracy and who are the most frequent violators.

There were no opponents. Hearings concluded on **HB 3023**.

The fiscal notes on **HB 3012**, **HB 3023**, **HB 3024** and **HB 3025** were distributed to committee members, attachments #2, #3, #4 and #5.

Chairman Shore opened discussion on **HB 3012**. Representative Rezac made a motion to pass **HB 3012** favorably. Representative Powers seconded the motion. Discussion followed on including the proposed penalty section requested by Bob Binder, Kansas Dairy Producers Legislative Committee. First and second withdrew their motion.

Jill Wolters, Revisor of Statutes, said she has that amendment ready, attachment #6, but was not certain if it is to be a civil or criminal penalty. Ken Wilke, Attorney, Department of Agriculture, said he thought it was to be a criminal penalty.

Representative Swall said he felt a criminal penalty just gets in the way of quick enforcement and is much more costly. Representative Swall made a motion to substitute civil penalties for criminal penalties and adopt the proposed penalty section. Representative Alldritt seconded the motion. Discussion followed on what civil

## CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE, Room 423-S Statehouse, at 9:00 a.m. on February 22, 1994.

fine authority the agency has in other statutes and how it has proven to be a good deterrent, use of a sliding fine schedule based on number of offenses, what civil penalties are already law regarding dairy processing facilities and how adverse publicity can be as bad as the amount of the penalty. First and second withdrew the original motion and made a new motion to substitute civil penalties for criminal penalties and adopt the proposed penalty section, using a sliding fine schedule in the range of \$100 to \$300. The motion carried.

Referring to Section 1(b), Representative Neufeld said there should have been standard language saying there will be equity between the different political parties. Representative Neufeld made a motion to include language saying not more than three members shall be of the same party. Representative Swall seconded the motion. The motion carried.

Representative Lloyd said the bottom line is that this bill will increase revenue to the producer and the consumer will eventually pay it. What will happen when everybody else wants to do this too?

Representative Bryant stated he was not in favor of the bill as there are still some legal questions awaiting resolution in the courts.

Representative Rezac said this bill will help stabilize dairy prices and he supports it.

Representative Powers said he is for the bill.

Representative Rezac made a motion to pass HB 3012 favorably as amended. Representative Powers seconded the motion. On a show of hands, the motion carried 9 to 8.

Chairman Shore opened discussion on **HB 3024**: manufacturing and distributing facilities licensed not individual product registered under the commercial feeding stuffs law.

Ken Wilke explained a proposed amendment, attachment #7, to change the language to more closely parallel other license revocation language, take out the word "distributor", enhance the ability of the agency to trace a product and establish a stop sale type procedure in new Section 6.

Representative Neufeld questioned the language in Section 1(b) that refers to "the provisions of article 10 of chapter 2". Mr. Wilke responded that this was existing language proposed by industry.

Representative Gatlin asked if industry supports this amendment. Jamie Clover Adams, Kansas Grain & Feed Association, said yes, she agrees with the amendment, but questions Section 2(j) which puts the burden of proof on the manufacturer. Representative Neufeld made a motion to adopt the proposed amendments as outlined in attachment #7, but striking Section 2(j). Representative Lloyd seconded the motion. The motion carried.

Chairman Shore pointed out that the fiscal note shows different estimates by the Department of Agriculture and the Division of Budget regarding the revenue impact on the Feeding Stuff's Fee Fund. Arlan Holmes, Division of Budget, said most businesses will be aware of the penalty fees included in this bill, so there will not be as many late fees or inaccurate report penalties as the Department of Agriculture estimated.

Representative Gatlin made a motion to pass HB 3024 favorably as amended. Representative Neufeld seconded the motion. The motion carried.

Chairman Shore opened discussion on **HB 3025**: stop use and stop sale orders for violating commercial or bulk fertilizer statutes.

Raney Gilliland, Legislative Research Department, said there is a technical amendment to change "of" to "or" on line 21 of the bill. Representative Alldritt made a motion to make the technical change and pass the bill favorably as amended. Representative Weiland seconded the motion. The motion carried.

The meeting adjourned at 10:00am. The next meeting is scheduled for February 23, 1994.

House Agriculture Committee  
House Bill 3023  
February 22, 1994

Mr. Chairman, members of the House Agriculture Committee, my name is Larry D. Woodson, Director, Division of Inspections, Kansas State Department of Agriculture and I am here this morning to testify in support of House Bill No. 3023.

The purpose of this bill is to address technology changes in the industry and to provide the agency with clear authority to inspect and regulate point of sale or electronic price scanning equipment (scanners) which are currently used in commerce.

Current law addresses weighing and measuring devices but does not speak to point of sale systems such as scanners.

I am sure that many of you have seen recent TV shows reflecting the economic fraud that can occur when point of sale systems are manipulated by unscrupulous individuals or where errors occur due to employee error or bar code problems.

Our Weights and Measures program has been actively involved in checking scanners in Kansas and believe we are achieving compliance. This bill legalizes our activities and provides us with appropriate language in the unlawful acts section. Compliance action is deemed appropriate when accuracy falls below 95 percent.

The department would also respectfully request consideration of further amendments to our Weights and Measures Law K.S.A. 83-304 and K.S.A. 83-404. Amendments to K.S.A. 83-304 provide stop use authority on devices that have not been inspected by a service company within 365 days. K.S.A. 83-404 provides for stop use authority for dispensing devices not tested within the preceding twelve calendar months.

These actions allow us to maintain compliance in programs that have been privatized and have been successful for the agency while reducing the cost of enforcement.

Your favorable consideration of H.B. 3023 and our proposed amendments will be appreciated.

Mr. Chairman, members of the House Agriculture Committee, that concludes our testimony. I or members of our staff will attempt to answer your questions.

HOUSE AGRICULTURE  
2-22-94  
Attachment #1

Section 1. K.S.A. 1993 Supp. 83-304 is hereby amended to read as follows:

83-304. (a) The owner or operator of a scale which is used for the commercial weighing of commodities shall have the scale tested and inspected at least annually for accuracy. The test shall be conducted by either a registered technical representative employed by a licensed scale testing and service company or by an authorized representative of any city or county which has established a department of public inspection of weights and measures pursuant to K.S.A. 83-210, and amendments thereto, or by the state sealer or an authorized representative of the state sealer, which inspects such scales in accordance with rules and regulations adopted by the state sealer. If upon inspection by the state sealer or an authorized representative of the state sealer, it is found that the scale has not been tested and inspected for accuracy and approved within the preceding 12 calendar months, the state sealer or the authorized representative of the state sealer shall take the scale out of service pursuant to the provisions of K.S.A. 83-215 and amendments thereto. The test weights used by the scale testing and service company shall have been approved and sealed by the state sealer pursuant to K.S.A. 83-214, and amendments thereto within the 12 calendar months preceding the date of the test. Except at the option of the city or county which has an established department of public inspection of weights and measures, annual tests and inspections shall be at the expense of the owner or operator of the scale. In any city or county which has a department of public inspection which annually inspects such scales, the test may be conducted by an authorized representative of the city or county weights and measures department. Farmers or ranchers who own and operate scales used in private treaty transactions are exempt from the annual testing requirements.

(b) A scale testing and service company or the city or county department

of public inspection of weights and measures or an authorized representative of the state sealer which conducts tests pursuant to this section shall, at the time of testing and inspection, promptly furnish to the owner or operator of the scale a report showing the results of the tests and inspection. Within 10 calendar days thereafter, the scale testing and service company or the city or county department of public inspection of weights and measures or an authorized representative of the state sealer shall furnish a copy of such report to the state sealer.

(c) Subject to the provisions of K.S.A. 83-215 and amendments thereto, the owner and operator of a scale which is found to be inaccurate at the time of testing shall withdraw immediately the scale from further use until the necessary corrections, adjustments or repairs are made and the scale is determined to be accurate by a scale testing and service company or the city or county department of public inspection of weights and measures or an authorized representative of the state sealer. Scales which have been repaired or serviced shall meet the tolerances and specifications adopted by the state sealer by rule and regulation. The scale testing and service company or the city or county department of public inspection of weights and measures shall notify the state sealer of any scales which are found not to comply with such tolerances and specifications. A copy of the report prepared by the scale testing and service company or city or county department of public inspection of weights and measures or an authorized representative of the state sealer showing the results of the scale test and the work done to correct any deficiencies shall be filed with the state sealer by the owner or operator of the scale within 10 days after the test and inspection has been completed.

Section 2. K.S.A. 1993 83-404 is hereby amended to read as follows: 83-404.

(a) The owner or operator of a dispensing device which is used for

commercial purposes shall have such device tested and inspected at least annually for accuracy. The test shall be conducted by either a testing service or by an authorized representative of any city or county which has established a department of public inspection of weights and measures pursuant to K.S.A. 83-210, and amendments thereto, or by the state sealer or an authorized representative of the state sealer, which inspects such dispensing devices in accordance with rules and regulations adopted by the state sealer. If upon inspection by the state sealer or an authorized representative of the state sealer, it is found that the dispensing device has not been tested and inspected for accuracy and approved within the preceding 12 calendar months, the state sealer or the authorized representative of the state sealer shall take the dispensing device out of service pursuant to the provisions of K.S.A. 83-215 and amendments thereto. The test weights and measures used by the testing service shall have been approved and sealed by the state sealer pursuant to K.S.A. 83-214 and amendments thereto, within the 12 calendar months preceding the date of the test. Except at the option of the city or county which has an established department of public inspection of weights and measures, annual tests and inspections shall be at the expense of the owner or operator. In any city or county which has a department of public inspection of weights and measures which annually inspects such dispensing devices, the tests may be conducted by an authorized representative of such city or county weights and measures department. Farmers or ranchers who own and operate a dispensing device used in private treaty transactions are exempt from the annual testing requirements.

(b) A testing service or the city or county department of public inspection of weights and measures or an authorized representative of the state sealer which conducts tests pursuant to this section, at the time of testing and inspection, shall promptly furnish to the owner or operator a report showing the results of

the tests and inspection. Within 10 calendar days thereafter, the testing service or the city or county department of public inspection of weights and measures or an authorized representative of the state sealer shall furnish a copy of such report to the state sealer.

(c) Subject to the provisions of K.S.A. 83-215, and amendments thereto, the owner and operator of a dispensing device which is found to be inaccurate at the time of testing shall withdraw immediately the device from further use until the necessary corrections, adjustments or repairs are made and the device is determined to be accurate by a testing service or the city or county weights and measures department or an authorized representative of the state sealer. The devices which have been repaired or serviced shall meet the tolerances and specifications adopted by the state sealer by rule and regulation. The testing service or the city or county shall notify the state sealer of any devices which are found not to comply with such tolerances and specifications. A copy of the report prepared by the testing service or the city or county weights and measures department or an authorized representative of the state sealer showing the results of the test and the work done to correct any deficiencies shall be filed with the state sealer by the owner or operator of the device within 10 days after the test and inspection have been completed.

Sec. 3. K.S.A. 1993 Supp. 83-304 and 83-404 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

Alan Holmes


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FISCAL SUMMARY INFORMATION  
KANSAS DEPARTMENT OF AGRICULTURE  
901 S. Kansas Avenue  
Topeka, Kansas 66612  
(913) 296-3556

FEB 21 1994  
Division of the Budget  
State of Kansas

Bill Number: H.B. 3012

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

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

Assistant Secretary \_\_\_\_\_  
Title \_\_\_\_\_ Date 2-21-94

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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 proposed legislation will establish a dairy marketing advisory board with authority to issue a State Milk Marketing Order. The State Milk Marketing Order will address low price areas within the Federal Milk Marketing Order or provide market stability in absence of a Federal Milk Marketing Order.

The milk marketing order will allow for the clarification of milk purchased, the establishment of minimum prices, payment schedules and for redistribution of the funds collected to the producers and cooperatives.

The Dairy Marketing Advisory Board shall be within the Kansas Department of Agriculture. This fiscal note is based on the assumption that all duties and responsibilities delegated by the Dairy Marketing Advisory Board are performed by a contracted agency outside the Kansas Department of Agriculture. The Kansas Department of Agriculture, after the State Milk Marketing Order is placed into effect, would be responsible to process vouchers and arrange the meetings of the Dairy Marketing Advisory Board.

Preparation of fiscal impact statement was completed based upon the following assumptions.

1. The bill would become effective July 1, 1994.
2. Confirmation of members to the Dairy Marketing Advisory Board would be completed by August 1, 1994.
3. State Milk Marketing Order would be written and approved, by producers residing in the state, to take effect July 1, 1995.

HOUSE AGRICULTURE  
2-22-94  
Attachment #2



SUMMARY OF ESTIMATED FISCAL IMPACTRE      IMPACT BY FUNDFY 1995FY 1996FY 1997

Dairy Marketing Advisory

Board Fund

TOTAL REVENUE

	0	3,840	3,840
\$	0	3,840	3,840

EXPENDITURE IMPACT BY FUND

State General Fund

Dairy Mrktg Adv Bd Fund

TOTAL EXPENDITURES

	23,904	0	0
	0	3,840	3,840
\$	23,904	3,840	3,840

EXPENDITURE IMPACT BY OBJECT

SALARIES &amp; WAGES

\$	0	0	0
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Communications

Printing

Rents

Repair

Travel

Other Contractual

Professional Services

TOTAL CONTRACTUAL

	580	120	120
	250		
	8,684	2,720	2,720
	350		
	13,740	900	900
\$	23,604	3,740	3,740

Clothing

Maint. Supplies

Prof. Supplies

Office Supplies

Other Supplies

TOTAL COMMODITIES

\$	300	100	100
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CAPITAL OUTLAY

\$	0	0	0
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TOTAL OPERATING EXPENDITURES

\$	23,904	3,840	3,840
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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>
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Total Benefits

TOTAL SALARIES &amp; WAGES

0	0	0	0	0	0
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CAPITAL OUTLAY

Item

<u>No.</u>	<u>Unit Cost</u>
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TOTAL CAPITAL OUTLAY

\$	0	0	0
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FEB 21 1994

*Division of the Budget  
State of Kansas*

FISCAL SUMMARY INFORMATION

KANSAS DEPARTMENT OF AGRICULTURE  
901 S. Kansas Avenue  
Topeka, Kansas 66612  
(913) 296-3556

Bill Number: House Bill 3023

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

Donald L. Jacka, Jr.  
Prepared By:

Assistant Secretary  
Title

Feb. 21, 1994  
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.)

Current enforcement activity is the same as proposed in the changes, therefore, no fiscal impact will occur.

HOUSE AGRICULTURE  
2-22-94  
Attachment #3

SUMMARY OF ESTIMATED FISCAL IMPACTRE IMPACT BY FUNDFY 1995FY 1996FY 1997

TOTAL REVENUE

\$ 0 \$ 0 \$ 0EXPENDITURE IMPACT BY FUND

TOTAL EXPENDITURES

\$ 0 \$ 0 \$ 0EXPENDITURE IMPACT BY OBJECT

SALARIES &amp; WAGES

\$ 0 \$ 0 \$ 0

Communications

Printing

Rents

Repair

Travel

Other Contractual

TOTAL CONTRACTUAL

\$ 0 \$ 0 \$ 0

Clothing

Maint. Supplies

Prof. Supplies

Office Supplies

Other Supplies

TOTAL COMMODITIES

\$ 0 \$ 0 \$ 0

CAPITAL OUTLAY

\$ 0 \$ 0 \$ 0

TOTAL OPERATING EXPENDITURES

\$ 0 \$ 0 \$ 0SALARIES 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>
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Total Benefits

TOTAL SALARIES &amp; WAGES

0	0	0	0	0	0
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CAPITAL OUTLAYItem

<u>Unit No.</u>	<u>Cost</u>
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TOTAL CAPITAL OUTLAY

\$ 0 \$ 0 \$ 0

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FISCAL SUMMARY INFORMATION


FEB 21 1994

KANSAS DEPARTMENT OF AGRICULTURE  
901 S. Kansas Avenue  
Topeka, Kansas 66612  
(913) 296-3556

Division of the Budget  
State of Kansas

Bill Number: House Bill 3024

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

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

Assistant Secretary  
Title \_\_\_\_\_

Feb. 21, 1994  
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.)

Under the current statute, all labels must be submitted, proofed and found to be in compliance with the requirements as outlined by K.S.A. 2-1002 prior to offering for sale or distribution. House Bill 3024 would allow for the secretary to request copies of labeling in order to determine compliance, but as long as the company is licensed, they can sell their products without the preapproval process for all products except for feed in packages of 10 pounds or less or specialty pet foods in packages of 1 pound or less. The small package products under the House Bill 3024 would continue to be registered for \$25.00 and \$15.00 respectively, per product annually. The labels for these small package products would require registration and preapproval prior to being sold or distribution.

The tonnage inspection fee collected semi-annually would remain intact in H.B. 3024.

Current law does not provide for the collection of penalties if the report of tonnage is inaccurate. House Bill 3024 would allow for a late fee or inaccurate report penalty. The penalty fee would be equal to 10 percent of the amount due or \$50.00, whichever is greater, for inspection fees not received within 30 days of the due date.

A review of firms that register feeding stuffs in Kansas indicates that if House Bill 3024 is enacted into law, there are 850 businesses that would need to be licensed in order to comply with the law.

It is anticipated that in the first year 100 firms would be delinquent in submitting their inspection tonnage fee reports. Number of firms that are delinquent in reporting would decline to 20 the following years. These assumptions are based on a historical review of firms that have been delinquent in reporting their inspection tonnage fees.

HOUSE AGRICULTURE  
2-22-94  
Attachment #4

SUMMARY OF ESTIMATED FISCAL IMPACTRE IMPACT BY FUND~~DOB~~ FY 1995

FY 1996

FY 1997

Feeding Stuffs Fee Fund, 2801

~~9,500~~ 13,500

9,500

9,500

TOTAL REVENUE

\$ 13,500

\$ 9,500

\$ 9,500

EXPENDITURE IMPACT BY FUND

Feeding Stuffs Fee Fund 2801

~~742~~ 1,226

742

742

TOTAL EXPENDITURES

\$ 1,226

\$ 742

\$ 742

EXPENDITURE IMPACT BY OBJECT

SALARIES &amp; WAGES

\$ 0

\$ 0

\$ 0

Communications

~~542~~ 542

542

542

Printing

~~50~~ 150

50

50

Rents

Repair

Travel

Other Contractual

384

TOTAL CONTRACTUAL

\$ 1,076

\$ 592

\$ 592

Clothing

Maint. Supplies

Prof. Supplies

Office Supplies

Other Supplies

~~150~~ 150

150

150

TOTAL COMMODITIES

\$ 150

\$ 150

\$ 150

CAPITAL OUTLAY

\$ 0

\$ 0

\$ 0

TOTAL OPERATING EXPENDITURES

\$ ~~542~~ 1,226

\$ 742

\$ 742

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>
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Total Benefits

TOTAL SALARIES &amp; WAGES

0	0	0	0	0	0
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CAPITAL OUTLAYItem

<u>No.</u>	<u>Unit Cost</u>
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TOTAL CAPITAL OUTLAY

\$ 0

\$ 0

\$ 0

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FISCAL SUMMARY INFORMATION

KANSAS DEPARTMENT OF AGRICULTURE  
901 S. Kansas Avenue  
Topeka, Kansas 66612  
(913) 296-3556

FEB 21 1994

*Division of the Budget  
State of Kansas*

Bill Number: House Bill 3025

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

Donald L. Jacka, Jr.  
Prepared By:

Assistant Secretary  
Title

Feb. 21, 1994  
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 current bulk fertilizer containment statute (K.S.A. 2-1231) authorizes the Board of Agriculture to file for Class B misdemeanor charges and county or district court injunctions for non-compliance of the act, or any rule and regulation.

House Bill No. 3025 authorizes the secretary, or a duly authorized representative of the secretary, to issue and enforce stop sale orders or stop use orders of bulk fertilizer facilities found to be in violation of the act, thus authorizing immediate regulatory authority for non-compliance and reducing the need for judicial review.

Current enforcement activity is the same as proposed in the changes, therefore, no fiscal impact will occur.

HOUSE AGRICULTURE  
2-22-94  
Attachment #5

RE	IMPACT BY FUND	FY 1995	FY 1996	FY 1997
	TOTAL REVENUE	\$ 0	\$ 0	\$ 0
	EXPENDITURE IMPACT BY FUND			

	TOTAL EXPENDITURES	\$ 0	\$ 0	\$ 0
	EXPENDITURE IMPACT BY OBJECT			
	SALARIES & WAGES	\$ 0	\$ 0	\$ 0

Communications  
 Printing  
 Rents  
 Repair  
 Travel  
 Other Contractual

	TOTAL CONTRACTUAL	\$ 0	\$ 0	\$ 0
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Clothing  
 Maint. Supplies  
 Prof. Supplies  
 Office Supplies  
 Other Supplies

	TOTAL COMMODITIES	\$ 0	\$ 0	\$ 0
	CAPITAL OUTLAY	\$ 0	\$ 0	\$ 0
	TOTAL OPERATING EXPENDITURES	\$ 0	\$ 0	\$ 0

SALARIES AND WAGES SUMMARY

Classification	Salary Range	No.	Amount	No.	Amount	No.	Amount
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Total Benefits							
TOTAL SALARIES & WAGES		0	0	0	0	0	0

CAPITAL OUTLAY	Unit
Item	No. Cost

TOTAL CAPITAL OUTLAY	\$ 0	\$ 0	\$ 0
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**HB 3012**  
**AMENDMENTS**

**Section . Definition**

The term "handler" shall include dairy manufacturing plants and milk distributors as those terms are defined in K.S.A. 65-703 and amendments thereto.

**Section . Unlawful acts**

It shall be unlawful for any person to:

- (a) fail to file any report or file any false report required by the dairy marketing advisory board;
- (b) fail to maintain any books or records required by the dairy marketing advisory board pursuant to this act or any rule and regulation promulgated thereunder;
- (c) violate any provision of any milk marketing order established pursuant to this act;
- (d) fail to make any payment required by any milk marketing order established pursuant to this act;
- (e) fail to make any payment required by this act or any rule and regulation promulgated thereunder; or
- (f) violate any provision of this act or any rule and regulation promulgated thereunder.

**Section . Penalty**

Upon conviction, any person who violates any provision of any milk marketing order established pursuant to this act, any provision of this act or any rule and regulation promulgated thereunder shall be guilty of a class a nonperson misdemeanor.



HOUSE BILL NO. 3024

By Committee on Agriculture

2-15

New Section 1. (a) No manufacturer, importer, jobber, firm, association, corporation or person shall sell, offer or expose for sale or distribute in this state any commercial feeding stuffs unless such person holds a valid license for each manufacturing or distribution facility in this state. No license shall be required of persons distributing only packages or containers of a licensed manufacturer ~~or distributor, importer, jobber, firm, association, corporation or person~~ as packaged and labeled by the manufacturer ~~or distributor, importer, jobber, firm, association, corporation or person~~ and whose name and address appear on the label as required in K.S.A. 2-1002, and amendments thereto. Any out-of-state manufacturer, importer, jobber, firm, association, corporation or person who has no distribution facility within this state shall obtain a license for such ~~entities~~ entity's principal out-of-state office if such ~~entity~~ out-of-state manufacturer, importer, jobber, firm, association, corporation, person or other entity sells, offers or exposes for sale or distributes any commercial feeding stuffs in this state. Application shall be made on forms prescribed and furnished by the secretary of the board of agriculture. The application shall be accompanied by an annual license fee of \$10. Licenses shall be renewed annually on or before July 1.

(b) The secretary, pursuant to rules and regulations, may deny, suspend, revoke or refuse to renew the commercial feed license ~~application~~ if the applicant or the licensee of any manufacturing or distribution facility is not in compliance with the provisions of article 10 of chapter 2 of the Kansas Statutes Annotated, and amendments thereto and any rules and regulations promulgated thereunder. The secretary may ~~cancel~~ deny, suspend, revoke or refuse to renew any commercial feed license subsequently found not to be in compliance

with any provision of article 10 of chapter 2 of the Kansas Statutes Annotated, and amendments thereto and any rules and regulations promulgated thereunder. No commercial feed license shall be ~~refused or canceled~~ denied, suspended, revoked or refused renewal unless the applicant or licensee has been given an opportunity for a hearing in accordance with the provisions of the Kansas administrative procedures act ~~to be heard before the secretary and given the opportunity to amend the application in order to comply with the requirements of article 10 of chapter 2 of the Kansas Statutes Annotated, and amendments thereto.~~

Section 2. K.S.A. 2-1004 is hereby amended to read as follows: 2-1004. (a) Each manufacturer, importer, jobber, firm, association, corporation or person, manufacturing or selling any commercial feeding stuffs in this state, shall pay to the secretary of the state board of agriculture an inspection fee of \$.10 per ton of 2,000 pounds, or fraction thereof, for each commercial feeding stuffs sold, offered or exposed for sale or distributed in this state.

(b) Each manufacturer, importer, jobber, firm, corporation, association of persons or person shall make application to the secretary of the state board of agriculture for a permit to report the tonnage of commercial feeding stuffs sold and shall pay the inspection fee on the basis of such report.

(c) In the case of a commercial feeding stuffs which is distributed in the state in packages of 10 pounds or less, an annual fee of \$25 shall be paid in lieu of the inspection fee.

(d) In the case of specialty pet foods which is distributed in the state in packages of one pound or less, an annual fee of \$15 shall be paid in lieu of the inspection fee.

(e) The minimum inspection fee shall be \$15 and shall be paid semiannually.

(f) The secretary may grant the permit upon condition that the applicant keep such records as may be necessary to indicate accurately the tonnage of commercial feeding stuffs sold, and as are satisfactory to the secretary, and granting the secretary or the secretary's duly authorized representative permission to verify the statement of tonnage. The report shall

be filed in the office of the secretary of the state board of agriculture, and the report of tonnage and inspection fee shall be due semiannually on the first day of January and the first day of July, covering the tonnage of commercial feeding stuffs sold the preceding six months.

(g) If more than one manufacturer, importer, jobber, firm, association, corporation or person is involved in the chain of distribution, the manufacturer, importer, jobber, firm, association, corporation or person who first sells or distributes a commercial feeding stuff for further sale or distribution in this state shall be responsible for payment of the applicable inspection fee for each commercial feeding stuff sold or distributed by the manufacturer, importer, jobber, firm, association, corporation or person.

(h) No inspection fee shall be required for any commercial feeding stuff sold under the name and label of another licensee if the inspection fee has or will be paid by a prior manufacturer, importer, jobber, firm, association, corporation or person in the chain of distribution as evidenced by an invoice or sales receipt.

(i) No inspection fee shall be required for any commercial feeding stuff on which the inspection fee has or will be paid by a prior manufacturer, importer, jobber, firm, association, corporation or person in the chain of distribution as evidenced by an invoice or sales receipt.

(j) The burden of proving that the inspection for any commercial feeding stuff has been or will be paid by a prior manufacturer, importer, jobber, firm, association, corporation or person in the chain of distribution shall fall upon the manufacturer, importer, jobber, firm, association, corporation or person claiming that fact.

~~(k) If the report is not filed and the inspection fee paid by the 30th of the month following the due date or if the report of tonnage is false, the secretary may revoke the permit. If the inspection fee is unpaid after the thirty day grace period, the amount due shall bear interest at the rate prescribed for judgements by K.S.A. 16-204 and amendments thereto from the date the report and inspection fee were due, until paid, and shall constitute a debt and become the basis of a judgment. The sale of a commercial feeding stuffs in this state without reporting and paying the inspection fee within 30 days from the due date, shall constitute cause for cancellation and revocation of the registrations filed by the~~

~~manufacturer, importer, jobber, firm, association of persons, corporation, or person. If~~  
~~inspection fees, which are due and owing, have not been remitted to the secretary within~~  
~~30 days following the due date or if the report of tonnage is not accurate, the secretary shall~~  
~~impose a delinquency fee equal to 10% of the amount due or \$50, whichever is greater.~~  
~~Such delinquency fee shall be in addition to the amount due.~~

Sec. 3. K.S.A. 2-1008 is hereby amended to read as follows: 2-1008. (a) The state board of agriculture, the secretary of the board and the duly authorized representatives thereof shall have free access to all places of business, mills, buildings and vessels, of whatsoever kind, used in the manufacture, transportation, importation, sale or storage of any commercial feeding stuffs and may open any parcel containing, or supposed to contain, any commercial feeding stuffs and may take therefrom, in the manner prescribed in K.S.A. 2-1009 and amendments thereto, samples for analysis and shall pay the retail price of the sample or samples procured. Before entering the premises, the representatives of the state board of agriculture shall make application to party or parties in charge of any manufacturer, importer, jobber, firm, association, corporation or person who sells, offers, or exposes for sale or distributes in this state any commercial feeding stuffs.

(b) The state board of agriculture, the secretary of the board or a duly authorized representative thereof, acting as the enforcing officer, may issue and enforce a written or printed stop sale order to the owner or custodian of any quantity of commercial feeding stuffs which the secretary or the duly authorized representative determines ~~are not registered under K.S.A. 2-1004 and amendments thereto~~, to be misbranded, adulterated or containing any substance injurious to the health of livestock, poultry or pets or which are sold, offered or exposed for sale in violation of any of the statutes contained in article 10 of chapter 2 of the Kansas Statutes Annotated and amendments thereto or any rules and regulations adopted thereunder. The stop sale order shall prohibit further sale and movement of such commercial feeding stuffs, except on approval of the enforcing officer, until the enforcing officer has evidence that the law and rules and regulations have been complied with and issues a release from the stop sale order. The secretary or a duly authorized representative of the secretary shall have the power to refuse to allow any manufacturer, importer, jobber,

~~firm, association, corporation or person to lower the guaranteed analysis or change the ingredients of any brand of such entities' commercial feeding stuffs unless satisfactory reasons are presented for making such change or changes.~~ Any stop sale order issued pursuant to this subsection is subject to review in accordance with the act for judicial review and civil enforcement of agency actions. The provisions of this subsection shall not be construed as limiting the right of the enforcement officer to proceed as authorized by other provisions of the statutes contained in article 10 of chapter 2 of the Kansas Statutes Annotated and amendments thereto.

Sec. 6. K.S.A. 2-1006 is hereby amended to read as follows: 2-1006.

~~The said secretary shall have power to refuse to register any commercial feeding stuffs under a name, brand or trademark, which would be misleading or deceptive, or which would tend to mislead or deceive as to the materials of which it is composed, or when the specific name of each and all ingredients used in its manufacture are not stated. The secretary shall also have the power to refuse to register more than one commercial feeding stuffs under the same name or brand when offered by the same manufacturer, importer, jobber, firm, association, corporation or person. Should any commercial feeding stuffs be registered in this state, and it is afterward discovered that such registration is in violation of any of the provisions of this act, the secretary of agriculture shall have the power to cancel such registration; the said~~ The secretary or a duly authorized representative of the secretary shall have the power to refuse to allow any manufacturer, importer, jobber, firm, association, corporation, or person to lower the guaranteed analysis or change the ingredients of any brand of his, her or their commercial feeding stuffs ~~during the term for which registered,~~ unless satisfactory reasons, as determined by the secretary or the secretary's duly authorized representative, are presented for making such change or changes.