

Approved: 2-9-94
Date

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairperson David Corbin at 10:00 a.m. on February 7, 1994 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
Lila McClafin, Committee Secretary

Conferees appearing before the committee:
Alan F. Alderson, Western Retail Implement and Hardware Corporation
Tom Tunnell, Kansas Fertilizer and Chemical Association, Inc.
Charles A Stones, Kansas Bankers Association

Others attending: See attached list

Chairperson Corbin opened the discussion on SB 305 - concerning liens on personal property; relating to leased equipment. He briefly reviewed the history of the bill, which was carried over from the 1993 Session. Hearings were heard during the 1993 Session. Proposed amendments to SB 305 were distributed (Attachment 1).

Allen Alderson reviewed the amendments. He stated they had met with the Kansas Bankers Association, and they had signed off on the proposed amendments. The amendments would simply plug into the existing so-called agriculture input lien law, which puts them on the same playing field as the agricultural chemicals, seeds, and petroleum products people.

Tom Tunnell, Kansas Fertilizer and Chemical Association, Inc., presented written testimony opposing the original SB 305, but stated they could support the bill with the amendments proposed by Mr. Alderson (Attachment 2).

Charles A Stones, Kansas Bankers Association, stated their association could support the proposed amendments.

Staff pointed out some technical amendments. Several members expressed concern with the 5 days to respond notice. Charles Stone stated the notice is marked plainly that it is an important notice and it needs a response.

A motion was made by Senator Steffes to adopt the proposed amendments. Senator Karr seconded the motion. The motion carried.

Staff suggested that a substitute bill should probably be drafted.

A motion was made by Senator Karr that the intent of the Committee was to have the amendments that where adopted by the Committee drafted into a substitute bill, and Substitute for SB 305, be reported favorably. Senator Steffes seconded the motion. The motion carried.

The meeting adjourned.

The next meeting is scheduled for February 8, 1994.

GUEST LIST

COMMITTEE: Senate Agriculture

DATE: February 7, 1994

[illegible]

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January 28, 1994

To The Honorable
David Corbin
Room 143-N
Statehouse
Topeka, Kansas 66612

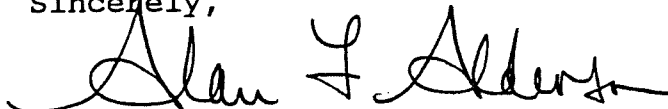
Re: SB 305; Proposed Amendments to
Corp Lien Bill

Dear Senator Corbin:

Enclosed please find a set of proposed committee amendments to Senate Bill 305 which is intended to shift the focus of the existing proposal to one in which the equipment dealers would simply plugged into the existing so-called agriculture input lien law. In affect, the amendments propose to gut the existing bill and insert two new substantive sections and the repealer and effective date sections in lieu thereof.

It is my understanding that you do not anticipate having time for me to appear to present these amendments before the week of February 7th. It appears, from my calendar as of this time, that I would be available on any day that week other than Wednesday, the 9th. Would you have Lila contact me to let me know what date you could slip me in for a few minutes? Thank you for your consideration of our request.

Sincerely,



Alan F. Alderson

ALDERSON, ALDERSON, MONTGOMERY & NEWBERY

AFA:ar

Enc.

cc: Jeff Flora

Jack R. Selzer

*Senate Ag. Com.
2-7-94
Attachment 1*

PROPOSED AMENDMENT TO SB 305

On page 1, by striking all of lines 13 through 43, inclusive;

On page 2 by striking all of lines 1 through 27, and inserting in lieu thereof, 4 new sections to read as follows:

"Section 1, K.S.A. 1993 Supp. 58-241 is hereby amended to read as follows: 58-241 as used in this act unless the

content clearly requires otherwise: (a) "Agricultural chemical" means fertilizers, lime or agricultural chemicals that are applied to crops, including fertilizer material, plant amendment, plant food, soil amendment, pesticide and plant regulator. (b) "Agricultural production input" means crop production inputs and livestock production inputs.

(c) "Crop production input" means agricultural chemicals, seeds, petroleum products, custom application of agricultural chemicals and seeds and labor furnished in planting, cultivating, growing, producing, harvesting, drying and storing crops or crop products, or equipment or machinery leased for the purpose of planting, cultivating, growing, producing, harvesting, drying and storing crops or crop products. (d) "Feed" means commercial feeds, feed

ingredients, mineral feeds, drugs, animal health products, supplements, customer-formula feeds or other products, including grain, that are used for feeding livestock.

new language

(e) "Lender" means a person in the business of lending money identified in the lien-notification statement. (f) "Letter of commitment" means a binding, irrevocable and unconditional agreement by a lender to honor drafts or other demands by a lender to honor drafts or other demands for payment upon the supplier presenting invoices signed by the purchaser or other proof of delivery. (g) "Lien" means a lien for the unpaid retail cost of agricultural production input. (h) "Livestock production input" means feed and labor furnished in raising livestock, but shall not include feed or labor for which the statutory lien created by K.S.A. 58-207 and 58-220 and amendments thereto relating to confinement feeding of livestock may apply, which shall remain subject to that statute. (i) "Person" means an individual or an organization as defined in paragraph (30) of K.S.A. 84-1-201 and amendments thereto. (j) "Petroleum product" means motor fuels and special fuels that are used in the production and drying of crops and production of livestock, including motor-vehicle fuels and liquefied petroleum gas, as defined in subsection (e) of K.S.A. 79-3401, subsection (a) of K.S.A. 79-3474 and subsection (b) of K.S.A. 79-3490, respectively, and amendments to these statutes and other petroleum products such as alcohol fuels, propane, lubes and oils. (k) "Proceeds" means proceeds as defined in K.S.A. 84-9-306 and amendments thereto except that if rights or duties are contingent upon express language in a financing statement, the requisite language may exist in a lien-notification statement under K.S.A. 1992 Sup. 58-242,

and includes farm products, inventory, warehouse receipts and documents of title as defined in the uniform commercial code.

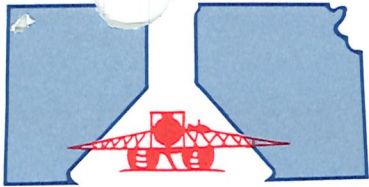
(1) "Seed" means agricultural seeds that are used to produce crops. (m) "Supplier" means a person who furnishes agricultural production inputs.

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"Section 2, K.S.A. 1993 Sup. 58-242 is hereby amended to read as follows: 58-242. (a) A supplier who furnishes crop production inputs has a lien for the unpaid retail cost of the crop production inputs. Subject to the limitations of subsection (d) of K.S.A. 1992 Sup. 58-242³, the lien shall have priority over a security interest of a lender only if perfected and if the supplier notifies the lender of the supplier's lien pursuant to K.S.A. 1992 Sup. 58-242³. The lien attaches to: (1) The existing crops upon the land where the furnished agricultural chemical was applied or if crops are not planted, to the next production crop within 16 months following the last date on which the agricultural chemical was applied: (2) the crops produced from the furnished seed; or (3) the crops produced, harvested or processed using the *new* leased equipment or machinery; or *language* (4) the crops produced, harvested or processed using the furnished petroleum product. If the crops are grown on leased land and the lease provides for payment in crops, the lien does not attached to the lessor's share of the crops. The lien continues in crop products and proceeds, except that the lien does ont continue after a cash sale. (b) A supplier who furnishes livestock production inputs has a lien for the unpaid retail cost of the livestock production input. Subject to the limitations of

subsection (d) of K.S.A. 1992 Sup. 58-24³~~2~~, the lien shall have priority over a security interest of a lender only if perfected and if the supplier notifies the lender of such supplier's lien pursuant to K.S.A. 1992 Sup. 58-24³~~2~~. The lien attaches to all livestock consuming the feed and continues in livestock products and proceeds, except that the lien does not continue after a cash sale. A perfected lien that attaches to livestock may not exceed the amount, if any, that the sales price of the livestock exceeds the greater of the fair market value of the livestock at the time the lien attaches or the acquisition price of the livestock. (c) A lien attaches when the agricultural production inputs are furnished by the supplier to the purchaser.

"Section 3. U.S.A. 1993 Supp. 58-241 and 58-24³~~2~~ are hereby repealed.

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



KANSAS FERTILIZER AND CHEMICAL ASSOCIATION, INC.

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STATEMENT OF THE
KANSAS FERTILIZER AND CHEMICAL ASSOCIATION
TO THE
SENATE AGRICULTURE COMMITTEE
SEN. DAVID CORBIN, CHAIRMAN
REGARDING S.B. 305
FEBRUARY 7, 1994

Mr. Chairman and Members of the Committee, I am Tom R. Tunnell, Executive Vice-President of the Kansas Fertilizer and Chemical Association. KFCA is the trade association of our state's agrichemical and fertilizer industry. Our 600 members include primarily retailers, but also distribution firms and manufacturer representatives and others which serve the industry. We appreciate the opportunity today to express our concerns for S.B. 305, which provides for a statutory lien for those engaged in the business of leasing equipment for the purpose of planting, threshing or harvesting.

We oppose S.B. 305 because our members do not believe any particular participant in the production of crops should

be granted a superior position by state statute. Debts

*Senate Ag Co.
2-7-94
Attachment 2*

resulting from the sale of seed, fertilizer, fuel, agricultural chemicals, tires and batteries for the purpose of producing crops are just as important to the agricultural input provider as debts for the use of rented harvesting equipment.

The current system of perfecting a security interest in growing crops under the Uniform Commerical Code works well and we do not see the need for changes at this time.

Thank you for the opportunity to testify.