

Approved: 3-8-94
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 24,, 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:
Forrest E. St. Aubin, Plant Health Division, Kansas Department of Agriculture
Art Stone, Topeka, KS
Representative Bill Bryant, Washington, KS
Dean Garwood, Topeka, KS
Lee Hamm, Director, Grain Inspection

Others attending: See attached list

A motion was made by Senator Frahm to approve the minutes of February 21, as corrected. Senator Morris seconded the motion. Motion carried.

Chairperson Corbin opened the hearing on SB 726 - regulating the transplanting of certain plants. He called on Mr. St. Aubin to explain the bill. A fiscal note for SB 726 was distributed.

Forrest E. St. Aubin, Plant Health Division, Kansas Department of Agriculture testified in support of the bill. He said the development of transplanting equipment has increased the movement of noncommercial trees and shrubs, and this legislation is designed to control the moving of pest infected plants (Attachment 1). He responded to questions.

Art Stone, owner of a tree planting machine, supported the bill.

Representative Bill Bryant, owner of the Bird's Nest Tree Farm, Washington, Kansas, opposed the bill in its current form, and suggested if the bill was worked it needed numerous changes, which are listed in his testimony (Attachment 2).

Dean Garwood, a practicing entomologist in Kansas, and former employee of the Kansas State Board of Agriculture opposed the bill, because certain of its provisions conflict with the provisions of the existing Kansas Plant Pest Act (Attachment 3).

The hearing on SB 726 was closed.

The hearing on SB 729 - Fees for departmental services was opened.

Lee Hamm, Director, Kansas Grain Inspection Department, this amendment would give the department the flexibility to charge fees on a number of crops under the Agricultural Marketing Act of 1946 (Attachment 4). He suggested the bill be amended to be effective on publication in the Kansas Register.

A motion was made by Senator Karr that the bill be amended on page 3, in line 31, by striking "statute book" and inserting "Kansas Register". The motion was seconded by Senator Wisdom. Motion carried. A motion was made by Senator Karr that SB 729 be passed as amended. The motion was seconded by Senator Wisdom. Motion carried.

Committee discussion was opened on SB 600 - tax exemption of certain property contiguous to dams and reservoirs. Chairperson Corbin stated one of the counties in his district was very opposed to extending the

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE, Room 423-S Statehouse, at 10:00 a.m. on February 24, 1994.

tax exemption.

Committee consensus was the bill be amended and the tax exemption be extended for 10 years for all private dams and reservoirs structures and watershed projects, and remove the language "each taxable year that such dam or reservoir is maintained in a condition satisfactory to the chief engineer", and counties would not have to refund any monies for taxes that had been collected while the structures were off of the tax rolls.

Due to time restrains the Committee adjourned at 11:05, and the discussion on SB 600 will be continued at the next meeting.

The next meeting is scheduled for February 25, 1994.

GUEST LIST

COMMITTEE: Senate Agriculture

DATE: 2-24-94

[illegible]

TESTIMONY

SENATE BILL 726

FORREST E. ST. AUBIN
PLANT HEALTH DIVISION
KANSAS DEPARTMENT OF AGRICULTURE

An understanding of the Kansas Plant Pest Act is necessary to fully comprehend this proposal. The plant pest act is designed to protect Kansas' natural and cultivated plant resources from attack by plant pests. It provides the necessary tools to accomplish this task, including regulated plant inspections, authority to establish internal and external quarantines when necessary, certification of Kansas grown nursery stock, and licensing of nursery stock dealers. The last two items are the major consumer protection components of the act. It is in the context of the plant pest act that this bill is offered to enhance the protection of the state's plant resources and to continue to ensure that consumers obtain only healthy plant materials.

When the last major revision of the plant pest act occurred in 1965, the transplanting activities currently conducted by industry as addressed in this bill did not occur. Since that time, tree spade equipment has been developed by equipment manufacturers and adopted by industry. This equipment has allowed for successful movement of large trees from one place to another.

Another aspect of the plant pest that must be understood is the definition of nursery stock. Nursery stock is defined as "any wild or cultivated trees, shrubs, grasses, vines, cuttings, grafts, scions, buds, and other parts of such plants grown or kept for propagation".

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Attachment 1

The development of transplanting equipment has increased the movement of non-commercial trees and shrubs. For example, it is now quite simple for someone to hire a transplanting equipment operator to move a tree from a non-commercial site, such as pasture or creek bottom, to their yard. However, the fact that the plant pest act currently requires an inspection is often overlooked.

This type of movement often results in the movement of pests. For example, a few years ago, the Air National Guard at Forbes Field in Topeka engaged the services of a transplanter to landscape a portion of their facility with large pine trees. Unknown to the Air National Guard, the trees planted on their facility were not certified nursery stock. A few weeks later, the trees began to die and our office was contacted by the Air National Guard. Our staff determined that the trees were infected with a needle disease that became more active when the trees were stressed from the move to their new site. The trees were frequently watered which increased the humidity around the trees causing the increased disease activity.

In another instance in Shawnee County, pine trees from an unregulated site were moved to a new housing development. Again, our office was contacted to investigate the condition of the trees. Our inspection of the trees revealed they were severely infected with pine tortoise scale. This particular insect can cause severe damage to pines and, if control measures had not been implemented, the insects could have easily spread to nearby uninfected trees.

In another example, a city purchased a tree spade and began moving ash trees from the city golf course to various parks around the city. Our staff was asked to examine the trees and approximately 90% of them were found to be infested with ash borers. By the following year, the trees were dead and other nearby ash trees

were beginning to exhibit symptoms of ash borer injury.

Noxious weeds are also spread through this type of activity. A northwest Kansas resident had trees moved from his rural windbreak to his new home in town. Later, the homeowner discovered that his lawn was infested with Canada thistle. The infestation originated from the soil around the trees that were moved from the windbreak.

All the situations described above increase the spread of plant pests. They also result in the increased use of pesticides to control the pests, thus increasing environmental degradation and costs to the consumer.

The risk of plant pest movement is often greater for large trees than for smaller trees. Current staff levels do not allow for the inspection of each tree prior to movement by transplanters. However, the plant pest act requires this inspection as wild trees are considered to be nursery stock.

A new definition, domestic ornamental, has been developed to describe the types of trees that have the greatest potential to be moved in this manner. No commercial value was placed on these trees when they were originally planted. This non-commercial value distinguishes these trees from those generally considered to be nursery stock.

This proposal establishes a privatization effort for the transplanting industry. It allows a transplanter to move regulated articles within a limited distance after the transplanter inspects the article for the freedom of plant pests. If pests are not found, the tree may be moved within a limited distance.

If pests are found, the tree may not be moved until the pest infestation is controlled.

Most privatization programs with which we are familiar include some type of reporting requirement. Those contained in this bill allow for a minimal reporting requirement which provides our staff with sufficient frequency to identify potential pest problems. Staff would perform random follow-up inspections within a reasonable period of time to work with industry to reduce pest spread. Positive environmental impact would be realized through the greater monitoring of pest activity associated with large trees and shrubs.

This bill is expected to be fiscal neutral with respect to fee income. Most persons operating transplanting equipment in a professional manner currently hold nursery dealer licenses. The fee for a transplanter license is the same as a nursery dealer license. Transplanters would obtain a transplanter license rather than nursery dealer license, so no additional fee income is expected.

Some modifications to the plant pest act may be necessary to eliminate any conflicting requirements. Another option would be to make this an amendment to the plant pest act.

Industry has provided our office with valuable input into the development of this concept and we sincerely appreciate their time in providing this assistance. It is our desire to continue to work with industry and the legislature to ensure that plant pest movement is reduced without additional regulatory burden on industry while, at the same time, maximizing the use of state resources.



BIRD'S NEST TREE FARM

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Feb. 24, 1994

Testimony on SB 726

Senate Agriculture Committee

Senator David Corbin, Chairman

Thank you, Mr. Chairman for allowing me the opportunity to testify on SB 726. I do oppose the bill in its current form.

First, I question the need for the bill since we are talking about trees and shrubs which are native to our state. We already have laws regulating materials coming in from out of state. Most transplants that this would deal with are close to home and are not introducing foreign materials into our area.

If there is a need to track such transplants the bill as written is overly burdensome since it would require inspection prior to transplanting, and I feel that the folks in the plant pest division that do inspections are already spread pretty thin with their current inspection duties.

If the bill is to be worked it needs numerous changes in my opinion. Some of which include the following:

1. It is in conflict with the Plant Pest Act which already requires inspection, and these differences need to be reconciled.
2. While it exempts nurserymen who transplant their own stock, it does not make it clear whether or not a nurseryman could transplant domestic ornamentals that are not in his possession.
3. It limits the area of transplanting to county lines instead of a particular mile radius which makes no sense

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at all.

4. There is no definition of "transplanter" in the bill.
5. It is not clear whether someone can transplant their own trees.
6. The Department probably doesn't have the manpower currently to assume these additional responsibilities.

Mr. chairman and members of the committee, some of these items are more than technical changes. They involve major policy decisions, and with that in mind I would recommend that the bill either be reported adversely or that no action be taken at this time allowing some of the "bugs" to be worked out. In particular, I would suggest that if some sort of tracking mechanism is needed to follow these trees and shrubs, that perhaps registration of transplanters be done instead of licensing, and possibly some sort of record of transplants be kept rather than prior inspection of all transplants.

Thank you for your consideration, and I would be happy to stand for questions.

Dr. Bill Bryant
Nurseryman

TESTIMONY ON SB 726
by
DEAN GARWOOD, CONSULTING ENTOMOLOGIST

February 24, 1994

Thank you for giving me the opportunity to express my views on SB 726.

My name is Dean Garwood. I have been a practicing entomologist in Kansas for forty-three years. For nearly thirty-five of those years I was a regulatory entomologist for the Kansas State Board of Agriculture responsible for the administration and enforcement of the Kansas Plant Pest Act. I retired from state service in 1988 and now perform pest management consulting services for a variety of clients including the Kansas Pest Control Association and the University of Kansas.

I am a registered lobbyist for the Kansas Pest Control Association but am not speaking for that organization today.

I oppose the adoption of SB 726 primarily because certain of its provisions conflict with provisions of the existing Kansas Plant Pest Act (KSA 2-2112 et al.).

The movement of living plants has been regulated in Kansas since 1907 in an attempt to prevent unwanted foreign insect pests and plant diseases from entering the state on their host plants and to prevent the movement of unwanted plant pests and diseases from an infested area to a non-infested area within the state. To accomplish this the Plant Pest Act requires that all wild and cultivated trees, shrubs, grasses and vines grown or kept for propagation be inspected and certified to be free of dangerous pests and plant diseases before they are transported from one place to another within the state. Nurserymen who grow and sell plants that are inspected and certified to be pest and disease free can conduct their business in the state. Persons who do not grow the plants they sell must obtain a nursery dealers license from the State Board of Agriculture and must sell only plants that have been inspected and certified to be pest free.

Section 2(a) of SB 726 will require any person who moves any tree or shrub to obtain a transplanter's license. A nurseryman is exempt from obtaining a transplanter's license if he plants only nursery stock that he has raised in his nursery. Since most nurserymen now sell plants that they purchase from other growers as well as plants that they grow, they will be required to carry both a nursery certificate and a transplanter's license if SB 726 is passed in its present form. Also, many licensed nursery dealers and most tree spade operators will have to carry a transplanter's license as well as a nursery dealers license to legally plant trees and shrubs in the state. This double licensing will serve no useful purpose.

Section 2(b) of SB 726 authorizes the holder of a transplanter's license to plant trees and shrubs without their being inspected by the

Board of Agriculture under certain specified conditions. This provision is in direct conflict with section 2-2123 of the Plant Pest Act. KSA 2-2123 states "It shall be unlawful to deliver, transport or ship into or within this state nursery stock which has not been inspected in accordance with the provisions of this Act." It would seem that a person transporting uninspected nursery stock under authority found in SB 726 would be in violation of the Plant Pest Act.

It is my opinion that SB 726 should not be enacted into law in its present form. This is not an emergency situation that needs immediate attention, therefore, I urge that SB 726 not be passed.

Thank you for giving me your kind attention.

TESTIMONY FOR SENATE AGRICULTURE COMMITTEE
on
SENATE BILL 729

February 24, 1994

Senator Corbin and Committee Members:

This amendment would give us the flexibility we need to be able to charge fees on a number of crops under the Agricultural Marketing Act of 1946, such as edible beans, sunflowers and any other exotic crops which might be put under the A.M.A. in the future.

There would be no fiscal impact from this bill. The fees would be the same as those we charge for edible beans.

Lee Hamm, Director
Kansas Grain Inspection Department

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