



**Testimony on House Bill 2271**  
to  
**The House Agriculture and Natural Resources Committee**

**by Chris Wilson**  
**Deputy Secretary**  
**Kansas Department of Agriculture**

**February 16, 2011**

Good morning, Chairman Powell, and members of the committee. I am Chris Wilson, Deputy Secretary of the Kansas Department of Agriculture, and I am here in support of House Bill 2271.

The purpose of HB 2271 is to update the Plant Pest and Agriculture Commodity Certification Act. This is the law that gives authority to the Department of Agriculture to regulate plant pests, live plant dealers, plants and plant products and commodity certification. The purpose of the live plant dealer licensing function is to ensure that all live plants sold in Kansas are not infested with dangerous plant diseases, insects, or other damaging plant pests.

Plant Protection and Weed Control staff work to ensure the health of the state's native and cultivated plants by excluding or controlling destructive pests, diseases and weeds. Staff examine and analyze pest conditions in crop fields, rangelands, greenhouses and nurseries. Action taken to control potential infestations of new pests, whether they are insects, plants diseases or weeds, is beneficial to the economy and the environment.

The mission of this program is to:

- Exclude or control harmful insects, plant diseases and weeds;
- Ensure Kansas plants and plant products entering commerce are free from quarantine pests;
- Provide customers with inspection and certification services.

The Plant Protection Program staff and our legal section have been working over several months and with stakeholder groups on this revision. There was consideration of a fee increase, with some industry groups supporting it and some opposing, so we decided not to bring that forward at this time.

The amendments in HB 2271 which we are proposing include:

K.S.A. 2-2113 (c) and (d). Beginning on page 1, Line 15, Definitions:

- Divide the definition of "Plants and Plant Products" into "Plants" and "Plant Products." This will allow us to talk about one or the other throughout the Act. Sometimes when they have to be used together, it does not make sense.
- Clarify the definition of "Live Plant Dealer" in new (f) by adding the language "engages in business in the following manner."
- Fix the spelling of "phytosanitary" in definitions (n) and (o).
- Remove the definition of Bee Pest in (q) since it is not used in the Act.

K.S.A. 2-2271, Page 2, Line 39:

- Add language to give the secretary the authority to place monitoring equipment and obtain samples in section (a).
- Change "probable cause" to "reasonable suspicion" to be consistent with what is use throughout the nation for a traffic stop.

Page 3. Line 2: If access to private property is denied, then the Secretary may apply to any court of competent jurisdiction for an order providing for

K.S.A. 2-2116, Page 3, Line 21:S

- Allow the secretary to assess expenses for the disposition of plant pests to the owner- after opportunity for hearing.

K.S.A. 2-2117, Page 3, Line 32:

- The word "providing" (due process?) was added by the Revisor.

K.S.A. 2-2118, Page 4, Section 4:

- Deleted "interstate or internationally" from line 18 on page 4. We want this statute to apply everywhere- interstate, internationally, and in state.
- Lines 22-24 would allow us to assess diagnostic costs to the person needing the test completed.

K.S.A. 2-2120, Page 5:

- Section (c) changes the exemption for a live plant dealers license. Under the proposed language, those who import into or export out of Kansas would not be exempt, even if annual gross receipts are under \$10,000. Right now we are issuing a license to those who have annual gross receipts under \$10,000, but they don't have a fee. The cost to our program to issue that license is \$6 per license. Under this proposal, we would exempt about 375 of the licensees. Then we will issue a license to the 175 who are importers/exporters. These are the ones we believe we need to follow.
- Section (b) changes the way fees are collected for the emergency response fund. We propose to collect \$3 every year instead of \$5 on the years the fund is under \$15,000 (about every other year). This would be less confusing for licensees and would be more efficient for the KDA Records Center. The emergency response fund is used for addressing special concerns, such as training for Thousand Cankers of Walnut disease;

dealing with Pine Wilt in Western Kansas; and working to control Hydrilla in the Olathe area.

K.S.A. 2-2122, Page 5, Line 30:

- Would give the secretary authority to deny any application for a live plant dealers license; also to suspend or revoke the license based on certain actions.

K.S.A. 2-2123, Page 6.

- Section (a) adds a requirement for shipments of plants to be tagged with the name and address of the shipper, the place of origin, and a description of the contents. The required information will allow for less problematic trace-forward, trace-backward investigation when a plant pest is found on a live plant being transported or offered for sale. Furthermore, this addition will align Kansas' requirements similar to surrounding states.
- The rest of the language is intended to clarify the statute.

K.S.A. 2-2124, Page 7.

- Allow us to better enforce the Act by clarifying what constitutes a separate violation. This change provides us with a mechanism to enact a temporary restraining order so we can stop the movement of plants that have pests.

K.S.A. 2-2125, Page 7, Line 33

- This section gives us a way to enforce the Act against out-of-state persons. A change is made to the civil penalty portion to make it consistent with other KDA laws.

K.S.A. 2-2126, Page 8, Lines 7-14:

- These changes are housekeeping – from the reference to the Kansas administrative procedure act on page 7 and just inserting preferable language.

K.S.A. 2-2128, Page 8, Line 27:

- This amendment changes the name of the entomology fee fund to the plant protection fee fund. The "entomology fee fund" is the old fund name given when the program only dealt with insects. Plant protection fee fund would be more understandable and applicable.

K.S.A. 2-2129, Page 8, Line 27.

- This amendment strikes the language to complete the transition of the way we collect fees for the Plant Pest Emergency Response Fund.

I will stand for questions at the appropriate time.