



109 SW 9th Street, 4th Floor
Topeka, Kansas 66612-1280

Dalc A. Rodman, Secretary

Phone: (785) 296-3556
Fax: (785) 296-8389
Email: ksag@kda.ks.gov
www.ksda.gov

Sam Brownback, Governor

Testimony on HB 2050
to
The House Agriculture and Natural Resources Committee
By Erik Wisner
Kansas Department of Agriculture
February 13, 2013

Good afternoon, Chairwoman Schwartz, and members of the committee. I am Erik Wisner, regulatory and policy special assistant, with the Kansas Department of Agriculture, and I am here to express KDA's support of House Bill 2050.

This bill proposes to make three necessary updates to pesticide and fertilizer law in Kansas: 1) it requires eliminates an exemption for alternative brand name products to pay for testing costs through registration 2) it repeals the agriculture liming act and 3) updates the pesticide law, requiring certificates of liability insurance coverage for pesticide businesses.

An alternate brand name (ABN) is a pesticide product with the same company name, EPA number and pesticidal claims as a currently registered pesticide product (primary product). ABNs are used preferentially to target market sectors. KDA incurs additional costs of verifying that ABN products meet specific standards due to the detailed comparison of the ABN labels to their primary product labels. However, current statute prohibits the secretary from assessing a fee for an ABN registration. Kansas is one of only 11 states (the only one in the Midwest) allowing ABNs to be registered at no cost. All of our neighboring states assess ABN fees.

This bill will eliminate the exemption that allows some companies to avoid paying the fee necessary to fund the registration of ABN products in Kansas. This statutory change will enable the department to provide the important service of verifying the safety of agricultural chemicals and to recover our regulatory costs for performing this service.

The Kansas Department of Agriculture requires every agricultural liming material manufacturer to annually register with the state and pay a fee for every ton of agricultural liming material sold. KDA staff annually collects and analyzes samples and records the effective calcium carbonate value posted at the quarry from Kansas quarries while agriculture liming materials from out of state sources of are not sampled.

When a different layer of limestone is quarried, the ECC is often different so the quarry may then use the sample test result as their new posted amount of ECC. After KDA laboratory analysis, the department notifies the quarry of the ECC value. Although the ECC value of the sample may be different than what is posted at the quarry, the department doesn't have the authority to take any enforcement action.

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The practical application of the current law is that KDA is performing sampling for a business that could be done for a fee by another entity, including Kansas State University or another private lab. Unlike other regulatory programs operated by the agency which focus on compliance and education, the only function of the agricultural lime testing is to provide sample results, which if different than what is posted, have no consequence of regulatory action. As KDA seeks to streamline programs and eliminate unnecessary regulatory programs, it supports HB 2050 to repeal the Kansas Agricultural Liming Materials Act.

Finally, HB 2050 repeals surety bond and letter of credit requirements while also increasing the liability insurance amount in the pesticide law. It is a common business practice for companies to maintain liability insurance but it is important for companies to carry adequate insurance coverage. The current requirement for liability insurance is inadequate to cover anything more than minor damage. Even though liability insurance may be cancelled, it's a more durable form of financial responsibility than either the letter of credit or the surety bond. The insurance underwriter has a vested interest in the insured's business practices that does not exist with letters of credit and surety bonds.

Thank you for the opportunity to speak with you today. I will stand for questions at the appropriate time.