



Kansas Cooperative Council (KCC)
Kansas Agribusiness Retailers Association (KARA)
816 SW Tyler, Topeka, Kansas 66612

February 7, 2017

TO: House Committee on Agriculture
From: Randy Stookey, Kansas Agribusiness Retailers Association
Leslie Kaufman, President/CEO, Kansas Cooperative Council

RE: Qualified Support of HB 2246, amending the Kansas noxious weed law.

Chairman Hoffman and members of the House Committee on Agriculture. Thank you for the opportunity to comment today in qualified support of HB 2246. This testimony is submitted jointly on behalf of the Kansas Agribusiness Retailers Association and the Kansas Cooperative Council.

The Kansas Agribusiness Retailers Association (KARA) is a voluntary trade association whose membership includes over 700 agribusiness firms that are primarily retail facilities supplying fertilizers, crop protection chemicals, and seed to Kansas farmers. The KCC's membership includes farm marketing and agricultural supply cooperatives, rural electric and telecommunications companies, insurance and risk management operations, credit unions and Farm Credit system members.

Together, our agribusiness members are the trained technicians and advisors that understand treating noxious weeds and provide many of the crop protection products needed by producers and landowners to control these plant pests. Thus, this bill is of interest to our associations and our members.

As drafted, HB 2246 would make changes to the Kansas noxious weed law. The current process for designating noxious weeds is both cumbersome and overly time consuming. The existing structure, as set forth in state statute, might not allow for a quick response in addressing damaging noxious weeds. The process established by HB 2246 would create new authority for the Kansas Secretary of Agriculture to designate plants as noxious weeds through rules and regulations.

Our organizations support regulation that is science-based and has beneficial practical application for production agriculture. The proposed regulatory approach in HB 2246 creates a system to strengthen the process behind noxious weed designation. It also safeguards the process from political implications by providing for broad stakeholder participation through the advisory committee. Each of our associations is able to fill a seat on the state advisory committee. This is a provision our associations strongly support and one of the main reasons we are able to support this proposal.

Our organizational membership includes trained and credentialed pesticide applicators, certified crop advisors and pesticide product registrants. Our members, more than anyone, possess the professional knowledge base to determine when a plant has become so invasive or difficult to eradicate or control that it should be designated as a noxious weed. Our members have the technical and professional knowledge and proficiency to understand how to properly gauge appropriate pesticide products, application rates and timing on each target plant.

Our industry positions on the state advisory committee provide us the opportunity to make recommendations on the designation and classification of state noxious weeds. The actual authority to designate any plant as a noxious weed in Kansas, however, would reside solely with the Secretary through regulations. Input from the agricultural chemical industry, through the advisory committee, is both appropriate and necessary to have a comprehensive review process. Last year, an effort was made to limit our involvement on the noxious weed state advisory committee. Participation in this committee is integral to our support for moving to the regulatory process. Loss of such involvement on the advisory committee would diminish our support and may force us to oppose the bill.

Potential Concerns with the bill:

Our associations have appeared in support of a previous version of this bill. On further review, we have identified the following possible concerns with the current language: the definition of the word “article” in section 1; the unlawful acts provisions in section 4; and, the penalty provision in section 15.

Pg. 1, Line 15, New Sec. 1. (b)(2) The definition of “article” is overly broad. The language needs tightened to only cover those items which are intended to be regulated by this act. Overly broad language fails to provide adequate notice to the regulated community of what an “article” is or how or when it is being regulated.

Pg. 4, New Sec. 4. The unlawful act provision does not currently require an intentional act. It appears that the unlawful act language has been broadened to include any transport of harvested grains/crops that contain noxious weed plant material. In addition, the bill increases the penalty provisions. We would urge the committee to carefully consider this language. Actual knowledge should be a requirement for a violation of the act if the criminal penalties are enhance as proposed in Section 15.

Pg. 13, beginning on Line 25, New Sect. 15. The bill proposes to double the amount of criminal penalties, even for unintentional acts. This provision would also remove the maximum cap on fines. We would recommend that the language require a “knowing” or intentional act to be found guilty of a criminal act, and would recommend maintaining the current maximum monetary fine of \$1,500 for each violation.

Many of the proposed changes to the Kansas noxious weed law, as set forth in HB 2246, would benefit the agricultural industry and Kansas agricultural producers. We support moving the noxious weed designation process from a statutory to a regularly process, provided, however, that this change includes input from a noxious weed state advisory committee that includes representatives from our industry. Therefore, our associations appear in qualified support of the bill and respectfully ask that the committee consider amending the bill, as described above, before passing it out favorably. Thank you for allowing us the opportunity to testify on HB 2246.

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HB 2246 -- Proposed amendments:

New Section 1.

(b) For the purposes of this act:

(2) “article” means any material ~~or tangible object that could~~ harbors, carry or carries ~~or is capable of disseminating~~ noxious weeds;

New Sec. 4. It shall be unlawful for any person, company or corporation:

(a) To knowingly import, introduce, plant, sow, move or ~~knowingly~~ allow to grow any weed declared and designated as noxious pursuant to K.S.A. 2- 1314, and amendments thereto, except in accordance with such conditions as the secretary may prescribe by rules and regulations to prevent the dissemination of such noxious weeds into this state;

(b) to sell, barter or give away nursery stock, plants, packing materials, animal fertilizer and soil or sod for landscaping or fertilizer use which contains, or is infested with, noxious weed plant material or seeds;

(c) to transport articles, seed, screening, ~~grains, crops,~~ straw, hay, forage, offal material or feed of any kind containing noxious weed plant material or seeds unless such materials shall have been carried or transported in such vehicles or containers which prevent the leaking or scattering thereof or are processed by grinding or other means adequate to destroy the viability of all such noxious weed plant material or seeds, except such feeds that are to be fed to livestock may be sold for consumption on the same farm where grown or may be sold to commercial processors or commercial feed mixers. All common carriers shall thoroughly clean and destroy any noxious weed plant material or seeds in or on cars, trucks, vehicles or other receptacles used by them after each load was delivered to a consignee before again placing such car, truck, vehicle or receptacle into service; or

(d) to bring any harvesting or threshing machinery, portable feed grinders, portable seed cleaners, field ensilage cutters or other farm vehicles or machinery into the state or from any field or farm within the state that is infested with any noxious weed without first cleaning such equipment free from any noxious weed plant material or seeds.

(e) This section shall not apply to: (1) Research sanctioned by a state or federal agency or an accredited university or college; or (2) activities specifically permitted by the secretary.

Sec. 15. K.S.A. 2-1323 is hereby amended to read as follows: 2-1323. Any person, association of persons, corporation, county or city or other official who shall violate or fail to comply with any of the provisions of this act and acts amendatory thereof or supplemental thereto shall be guilty of a misdemeanor and shall be punished upon conviction thereof by a fine of ~~\$100~~ \$200 per day for each day of noncompliance ~~up to a maximum fine of \$1,500~~ up to a maximum fine of \$1,500 for each violation.