



Since 1894

To: Senate Committee on Agriculture and Natural Resources  
Senator Dan Kerschen, Chair

From: Mike Beam, Sr. Vice President

Re: **Support for House Bill No. 2583, updating the Kansas noxious weed laws**

Date: March 16, 2018

*The Kansas Livestock Association (KLA), formed in 1894, is a trade association representing over 5,200 members on legislative and regulatory issues. KLA members are involved in many aspects of the livestock industry, including seedstock, cow-calf and stocker production, cattle feeding, dairy production, grazing land management and diversified farming operations.*

The Kansas Livestock Association (KLA) supports HB 2583 because the bill:

- improves and modernizes the manner in which noxious weeds are designated in Kansas
- allows for an emergency declaration of a noxious weed
- authorizes a county wide designation of a noxious weed, upon approval by the Secretary of Agriculture
- addresses a manner in which noxious weeds inadvertently have been seeded along our roads and highways.
- updates the noxious weed statutes to reflect how noxious weed programs are now being administered and funded at the local level

The expensive, time consuming, and never ending task of controlling invasive plant species and noxious weeds is a concern often voiced by grazing land owners and operators in Kansas. Our members' angst with these challenges have led to several policy actions in recent years...which have led to our support for state legislation in 2014, 2015, 2016, and 2017. That's why we are back here again in 2018, supporting a similar bill (which passed the House in 2016) in hopes of seeing meaningful noxious weed legislation finally make it through the legislative process.

### **What's happened since the 2017 Legislative Session?**

I want to commend the Kansas Department of Agriculture for sponsoring and hosting an October 19, 2017 forum on noxious weeds. Stakeholders who've expressed opinions about previously introduced noxious weed legislation were invited to attend. The program consisted of an overview of invasive species threats in Kansas, especially plants that are invading our state's native grasslands. I vividly recall The Nature Conservancy presenter who claimed the estimated damage from invasive plant species, on a worldwide basis, is \$1.4 trillion.

I was pleased this event was well attended and attendees were not bashful in expressing their concerns about invasive plant species threats in this state and their concerns and suggestions regarding changes to the noxious weed law. I'm sure there remain some concerns, but I sense there is less resistant to moving forward with updating our noxious weed law and in fact more support for this legislation.

Following this event KDA and I were invited to speak and visit with county officials, including noxious weed directors, at the annual meeting of the Kansas Association of Counties.

I was encouraged to see and hear the commitment these individuals have regarding educating landowners and controlling noxious weeds, despite their limited resources.

### **Designating Noxious Weeds**

KLA members have repeatedly voiced support for the proposed change to how noxious weeds should be designated or determined as prescribed in HB 2583. Currently, noxious weeds must be listed by the passage of state legislation...which we all know can take four months, not counting the effective date upon publication in the *Kansas Register* or *Kansas Statutes*.

Furthermore, there are no guidelines as to what the legislature should consider when listing a noxious weed. It's merely a political decision based on the testimony provided during an hour hearing and many times action is stifled because of the constraints of the legislative deadlines. This bill would allow the Kansas Department of Agriculture to list a plant as noxious after the 60 day process authorized by the rule and regulation procedure.

We should also ask ourselves if listing noxious weeds through the passage of legislation is the most appropriate mechanism. As a comparison, the process of determining a reportable disease in the livestock sector is done through the rule and regulation process. It makes sense to us that invasive plant or a noxious weeds declaration that threatens our private agricultural lands and public lands should also be subject to the rule and regulation process, in lieu of the passage of legislation.

We believe this approach, in conjunction with the new advisory committee, will provide a more scientific manner than current law. In addition, coupled with the new provision (New Section 2) for an emergency declaration, these changes will allow the state to respond in a more timely way when a plant merits a noxious weed designation.

### **County option noxious weeds**

Another benefit of HB 2583 is the ability for the designation of noxious weeds at a county level. There are several plants considered invasive in eastern Kansas that are not a threat or concern in the western reaches of the state. For example, we have members who would like to see Old World Bluestem listed as a noxious weed. This plant is invasive in many areas of the Flint Hills in Eastern Kansas, but not considered a threat in western Kansas. Subsection (d) of Section 6 (page 6) provides a mechanism to declare a plant noxious within a county. The proposed county option provision requires approval by the Secretary of Agriculture.

**Mulch hay on road ways**

KLA is specifically supportive of the provision in New Section 5. Our members repeatedly have noted that invasive species have invaded native grasslands by spreading from road ditches. These right-of-ways may have been planted to invasive plant species with the seed mixture and/or attached to the mulch hay used for reseeded.

**Other provisions of HB 2583**

You'll find several updates to the noxious weed statutes in HB 2583. It's our understanding that many of these were made after the Kansas Department of Agriculture's staff collaborated with county officials, including county weed directors. I'm confident KDA's testimony will address these provisions and help answer any questions you may have.

**Suggested amendment(s) to HB 2583**

If you look carefully at the bill (lines 5 & 6) you'll see that seven (7) sections of current law would be repealed. Five (5) of these sections are rolled into the New Section 4 of this legislation. There was some concern expressed by the Kansas Feed and Grain Association and Kansas Agribusiness Retailers Association that the rewrite of these sections for inclusion in New Section 4 was an increase risk to their members. This concern was heightened with the new term of "article" defined in New Section 1 and used in New Section 4.

After the House Agriculture Committee amended the bill we visited with these stakeholders and KDA about the merits of striking New Section 4, striking the new term of "article", and retain KSA 2-1325 to 1329 (see attached).

This appears to be a preferable approach to the original bill and House amendments, thus we suggest this Committee amend HB 2583 accordingly.

In summary, KLA believes this legislation is a needed update to our archaic noxious weed statutes, which go back to 1947. We urge this committee to move the bill forward for passage in 2018.

I'm happy to respond to any questions or concerns from committee members.

Thank you for your consideration!

**KLA & KGFA Amendment to HB 2583**

New Section 1.

(a) The provisions of article 13 of chapter 2 of the Kansas Statutes Annotated, and amendments thereto, and sections 1 through 5, and amendments thereto, shall be known and may be cited as the noxious weed act.

(b) For the purposes of this act:

(1) "Act" means the noxious weed act;

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

(3) "certified weed free" means any unprocessed plant product that has been inspected by authorized state officials and found to be free of the reproductive parts of noxious and invasive weeds according to standards set forth by the North American invasive species management association;

(4) "control" means the removal or destruction of the reproductive parts of any noxious weeds before such weeds propagate and spread or whenever required by the secretary or the weed supervisor;

(5) "governing body" means the board, body or persons in which the powers of a political subdivision as a corporate body are vested;

(6) "governmental agency" means the state or any agency or political subdivision thereof or the government of the United States or any agency or instrumentality thereof;

(7) "noxious weed" means any species of plant that the secretary shall determine to be a noxious weed in rules and regulations adopted and promulgated pursuant to this act;

(8) "noxious weed plant material" means any noxious weed plant or plant part that is capable of reproducing sexually or asexually;

(9) "person" means an individual, associations of persons, companies, corporations, the secretary of transportation, boards of county commissioners, township boards, school boards, drainage boards, governing bodies of cities, railroad companies and other transportation companies or corporations or their authorized agents and those supervising state-owned lands;

(10) "political subdivision" means any agency or unit of the state authorized to levy taxes or empowered to cause taxes to be levied;

(11) "secretary" means the secretary of agriculture or the secretary's designated representative;

(12) "state advisory committee" means the state noxious weed advisory committee consisting of ~~11~~ **13** voting members and the secretary; and

(13) "weed supervisor" means a person hired by a county, township, city or district and approved by the secretary to enforce the noxious weed act and to control and manage noxious weeds within the supervisor's jurisdiction.

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New Sec. 4.

(a) Except as provided in subsection (b), it shall be unlawful for any person to **knowingly**:

(1) ~~Import, introduce, plant, sow, move, knowingly allow to grow, or fail to control the spread of and eradicate any species of plant declared a noxious weed pursuant to this act, except in accordance with such conditions prescribed by the secretary in rules and regulations to prevent the dissemination of such noxious weeds into this state;~~

(2) ~~sell, barter or give away nursery stock, plants, packing materials, animal fertilizer and soil or sod for landscaping or fertilizer use that contains noxious weed plant material or seeds;~~

(3) ~~transport articles, seed, screening, grains, crops, straw, hay, forage, or 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 that 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:~~

(A) ~~For consumption on the same farm where grown, provided that such feeds not leave the land of the owner or grower between where it was grown and where it is stored or fed, and provided that such feeds do not cross or access any public road; or~~

(B) ~~to commercial processors or commercial feed mixers. All common carriers shall, **when the presence of noxious weed material or seeds is known**, 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~~

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

(b) 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 order of the secretary.~~

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Sec. 19. K.S.A. 2-1314b, 2-1316a, 2-1320, 2-1323, ~~2-1325, 2-1326, 2-1328, 2-1329~~, 2-1330 and 2-1332 and K.S.A. 2017 Supp. 2-1314, 2-1315, 2-1316, 2-1317, 2-1318, 2-1319, 2-1322, ~~2-1327~~, 2-1331 and 2-1334 are hereby repealed.

## **Existing noxious weed laws proposed to retain with new amendment to HB 2583**

**2-1325. Unlawful acts; disposal of screenings and materials.** It shall be unlawful for any person, company or corporation to sell, offer for sale, barter, give away or otherwise dispose of any screening or offal material containing seeds of weeds mentioned in K.S.A. 2-1314 unless such screenings and materials shall first have been processed by grinding or other adequate means, and the viability of all such weed seeds therein destroyed provided, unprocessed screenings or offal materials may be sold to a commercial processor or commercial feed mixer for processing.

History: L. 1945, ch. 3, § 6; March 20.

**2-1326. Same; disposal of infested plants, materials or fertilizers.** It shall be unlawful for any person, company or corporation to sell, barter or give away nursery stock, plants, packing materials, animal fertilizer and soil or sod for landscaping or fertilizer uses which contains or is infested with noxious weed plant material or seeds.

History: L. 1945, ch. 3, § 7; March 20.

**2-1327. Same; harvesting and other machines; labeling.** It shall be unlawful for any person, company or corporation to (1) bring any harvesting or threshing machinery, portable feed grinders, portable seed cleaners, or field ensilage cutters or other farm vehicles or machinery into the state without first cleaning such equipment free from all weed seed and litter, or (2) to move any harvesting or threshing machines, portable feed grinders, portable seed cleaners or field ensilage cutters from any field or farm infested with any noxious weed without first cleaning such equipment free from all weed seed and litter. Each such machine operated by a person doing work for another shall be labeled with an appropriate label on a form provided by the secretary of agriculture containing this section of the law.

History: L. 1945, ch. 3, § 8; L. 1957, ch. 7, § 9; L. 2004, ch. 101, § 32; July 1.

**2-1328. Same; infested livestock feed material.** It shall be unlawful for any person, company or corporation to sell or offer for sale, barter or give away any livestock feed material which is infested with seeds of noxious weeds unless such feed material shall first have been processed and the viability of all noxious weed seeds present therein destroyed, except such feeds (1) may be sold for consumption on the same farm where grown or (2) may be sold to commercial processors or commercial feed mixers.

History: L. 1945, ch. 3, § 9; March 20.

**2-1329. Same; unprocessed livestock feed.** It shall be unlawful for any person, company or corporation to feed to livestock, except on the premises where grown or when purchased from a grower or dealer within the state, any grains, crops or other material containing the seeds of noxious weeds, without first having processed same as to destroy the viability of all such weed seeds.

History: L. 1945, ch. 3, § 10; March 20.