

SESSION OF 2016

**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2490**

As Agreed to April 29, 2016

Brief*

HB 2490 would amend various laws regarding plant toxicants, plant pests, and weights and measures.

Plant Toxicants and Plant Pests

The bill would add the definition of the term “toxicant” to the definitions of the Plant Pest Act. Under the bill, the term “toxicant” would mean any chemical, including agricultural chemicals which, if present in unsafe levels, can render a plant or plant product unsafe for human or animal consumption. The definition of the term “plant pest” would be amended to include “toxicant” and to include anything “which can cause a threat to public health.”

The bill would grant additional authority to the Secretary of Agriculture (Secretary) to quarantine the state or parts of the state when it is necessary to contain a plant pest for the protection of public health. New authority also would be given to the Secretary to prevent the spread of a plant pest through quarantine into the state through its movement or transportation.

*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kldr>

Weights and Measures

The bill would establish rates that the Secretary may charge in conjunction with the testing and proving of weights, measures, and other devices. These rates would vary depending upon the service being provided and would be established in statute. The bill would provide an out-of-state rate and an in-state rate for those licensed service companies that have licensed technical representatives performing service work in the state. The bill would permit an additional fee for adjustment of any weight, measure, or other device.

The bill also would permit the Secretary to charge additional fees for preparing items for shipment. For services not listed in the bill, the Secretary would determine the fee to be charged. For any service provided, the bill would permit the Secretary to charge a minimum fee of \$50 per invoice.

In addition, the bill would establish maximum license application fees for each person desiring to operate and perform weights and measures testing and other services as a company in Kansas. Beginning with the 2017 license year, the Secretary would be authorized, by order, to set those fees with the following maximum amounts:

- Commencing July 1, 2017, the maximum amount would be \$100;
- Commencing July 1, 2019, the maximum amount would be \$110;
- Commencing July 1, 2021, the maximum amount would be \$120; and
- Commencing July 1, 2023, the maximum amount would be \$130.

The fees for license renewals would be equal to the license application fees provided for each place of business.

With respect to technical representatives, beginning July 1, 2017, each technical representative who has had ten years of continuous licensure with no administrative enforcement action adjudicated against that representative would be eligible to obtain a three-year license. The bill would establish the three-year license fee at an amount not to exceed \$300 and require those technical representatives to complete continuing education. The Secretary would be authorized to promulgate rules and regulations to require technical representatives who have been adjudicated in violation of this legislation or rules and regulations to seek renewal of a license on an annual basis, as well as establish criteria for reinstatement of eligibility for the three-year license. Authority would be given to the Kansas Department of Agriculture (KDA) to charge a fee to the attendees of continuing education seminars in an amount not more than is necessary to cover the expenses incurred by the agency.

Lastly, the bill would do the following:

- Eliminate language that had made it unlawful to dispose of any weight, measure, or weighing or measuring device that does not meet state standards;
- Eliminate language that had made it unlawful to possess a weight, measure, or weighing or measuring device that is used for or intended to be used for commercial purposes that does not meet tolerances and specifications; and
- Clarify in the provisions relating to unlawful acts by service companies or technical representatives that the acts are done “knowingly.”

Conference Committee Action

The Conference Committee agreed to the language of HB 2490, as amended by the Senate Committee. The

Conference Committee also agreed to add the language of House Sub. for SB 227, regarding weights and measures.

Background

[*Note:* the Conference Committee added the provisions of House Sub. for SB 227, as recommended by the House Committee on Agriculture and Natural Resources. Background information on HB 2490 and House Sub. for SB 227 follows.]

HB 2490 Background

HB 2490 was introduced at the request of a spokesperson from the KDA. At the hearing on the bill before the House Committee on Agriculture and Natural Resources, a spokesperson for the agency indicated that in the event of a plant pest or disease outbreak, the bill would allow the agency to act more rapidly to stop the spread of the plant pest, which is critical to the agricultural industry.

Also appearing in support of the bill was a spokesperson for the Kansas Grain and Feed Association, Kansas Cooperative Council, and the Kansas Agribusiness Retailers Association. There were no neutral or opponent conferees.

The Senate Committee on Natural Resources amended the bill by striking “or any biological substance” from the definition of “toxicant.” [*Note: the Conference Committee report would retain this amendment.*]

The fiscal note on the bill prepared by the Division of the Budget on the bill as introduced indicates there would be no fiscal impact associated with the enactment of the bill.

House Sub. for SB 227 Background

The original contents of SB 227 were deleted by the House Committee on Agriculture and Natural Resources and provisions of HB 2712, regarding weights and measures, were inserted to create the substitute bill. The original contents of SB 227, regarding local enhanced management areas (LEMAs), were placed into 2015 SB 52, which was signed into law by the Governor on May 19, 2015.

HB 2712 Background

At the hearing before the House Committee on Agriculture and Natural Resources, proponents of the bill included representatives of the KDA and the Coalition of Scale Companies. The conferees indicated the bill had been developed over time and the purpose was to stabilize the funding stream of the Weights and Measures Division of the KDA. In addition, the Committee was told the bill contained some measure of regulatory modification.

The fiscal note on HB 2712 states that, according to the KDA, passage of the bill would increase revenue to the agency's Weights and Measures Fee Fund by approximately \$29,650 in FY 2017. The agency indicates the change to the Metrology Lab pricing structure will provide incentive to increase laboratory efficiency, which could result in increased revenues. The increases to the service company license applications and renewal fees would be expected to cover the majority of the costs associated with processing applications and renewals and allow the Metrology Lab to become nearly self-sustaining. Any fiscal effect associated with HB 2712 is not reflected in *The FY 2017 Governor's Budget Report*.

Plant Pest and Agriculture Commodity Certification Act; plant pests; plant pest containment; Kansas Department of Agriculture; weights and measures; technical representatives; fees; licenses

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