



Kansas Grain and Feed Association
Kansas Agribusiness Retailers Association
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March 7, 2024

To: Senate Committee on Agriculture and Natural Resources
From: Randy Stookey, Senior Vice President & General Counsel, KGFA, KARA
Re: **Proponent Testimony on HB 2607, amending the Kansas pesticide law.**

Chairman Peck and members of the committee, thank you for the opportunity to provide testimony in support of House Bill 2607. This testimony is submitted jointly on behalf of the Kansas Grain and Feed Association (KGFA) and the Kansas Agribusiness Retailers Association (KARA).

KGFA is the state association of the grain receiving, storage, processing, and shipping industry in Kansas. With a membership exceeding 950 Kansas business locations, KGFA represents 99% of the commercially licensed grain storage in the state. KARA is a state-wide agribusiness industry trade association comprising over 700 members companies that supply inputs to Kansas farmers, including pesticides, herbicides, seed, fertilizer, fuel, and agronomic services. Members of these associations are involved in the sale and application of agricultural pesticides, including restricted use pesticides.

House Bill 2607 would amend the Kansas pesticide law to allow it to come into conformity with current federal EPA regulations. The bill would place new regulatory requirements on private applicators of restricted use pesticides, including expanded training and supervision requirements.

This bill is necessary to allow the Kansas department of agriculture (KDA) to continue to maintain primacy - or delegated authority from the USEPA - to regulate the sale, handling, and use of certain agricultural pesticide products. To ensure that Kansas continues to enjoy state primacy over this highly regulated industry, we strongly support the bill.

The House amended the bill in multiple ways, and we support each of those amendments but one. The bill grants KDA new authority to assess civil penalties on individuals that use pesticides in a manner that is inconsistent with the label directions.

Originally, the bill would have granted KDA authority to assess civil penalties on individuals up to \$5,000. The House amended the bill to reduce the maximum amount to \$500. However, the House amendment also reduced existing civil penalty authority over businesses to \$500. The maximum civil penalty authority over businesses was previously at \$5,000.

As this reduction in maximum civil penalties on businesses is likely to be challenged by the USEPA, we would respectfully request that the committee amend *Section 5, K.S.A. 2-2440e(a)* of the bill to restore the civil penalty authority over businesses to its previous maximum of \$5,000. We provide our suggested amendment language, below, in blue.

Regarding the appropriate level of new civil penalty over individuals – either commercial applicators, or private applicators (farmers) – we would ask that if the committee seeks to amend this penalty level, that it set the penalty at no more than \$1,000 per violation.

Thank you for allowing us the opportunity to testify in support of House Bill 2607. We respectfully request that the committee consider adopting our proposed amendments and then pass the bill out favorably. We will stand for questions at the appropriate time.

Proposed Amendment

Sec. 5. K.S.A. 2-2440e is hereby amended to read as follows: 2- 2440e. (a) Any ~~pesticide business licensee or pesticide dealer who~~ person or entity that pesticide business licensee or pesticide dealer who violates any of the ~~provisions~~ provision of K.S.A. 2-2453 or 2-2454, and amendments thereto the Kansas pesticide law or any rules or regulations adopted thereunder, in addition to any other penalty provided by law, may incur a civil penalty imposed under subsection (b) in the amount fixed by rules and regulations of the secretary in an amount not less than \$100 nor more than ~~\$5,000~~ \$500 \$5,000 for each violation and, in the case of a continuing violation, every day such violation continues may be deemed a separate violation, ~~except that in no case shall the maximum total civil penalty exceed \$2,500.~~ In the case of a continuing violation, the maximum civil penalty shall not exceed \$10,000. Any person other than a pesticide business licensee, pesticide dealer, or person or entity required to be licensed as a pesticide business or pesticide dealer, that violates the Kansas pesticide law or any rules or regulations adopted thereunder, in addition to any other penalty provided by law, may incur a civil penalty imposed under subsection (b) in the amount fixed by rules and regulations of the secretary in an amount not less than \$100 nor more than \$500 for each violation and, in the case of a continuing violation, every day such violation continues may be deemed a separate violation. In the case of a continuing violation, the maximum civil penalty shall not exceed \$2,000.