



Kansas Grain & Feed Association
Kansas Agribusiness Retailers Association
816 SW Tyler, Topeka, Kansas 66612 | 785.234.0461

Date: February 8, 2018
To: House Committee on Agriculture
From: Randy E. Stookey, Senior Vice President of Government Affairs
RE: **Qualified Support of HB 2583, amending Kansas noxious weed law**

Chairman Hoffman and members of the committee, thank you for the opportunity to provide testimony in qualified support of House Bill 2583. This testimony is submitted jointly on behalf of the Kansas Grain and Feed Association (KGFA), and Kansas Agribusiness Retailers Association (KARA).

KGFA is the state association of the grain receiving, storage, processing and shipping industry in Kansas. KGFA's membership includes over 950 Kansas business locations and represents 99% of the commercially licensed grain storage in the state. KARA is a voluntary trade association that appreciates membership of over 700 agribusiness firms that supply fertilizers, crop protection products, seed, petroleum products, and agricultural services to Kansas farmers.

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 2583 would make beneficial changes to the Kansas noxious weed law. The current process for designating noxious weeds is both cumbersome and time consuming. The existing structure set forth in state statute might not allow for a quick response in addressing damaging noxious weeds. The new process established by HB 2583 would provide the Kansas Secretary of Agriculture with authority 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 2583 strengthens the process behind noxious weed designation. It also safeguards the process from political implications by providing for broad stakeholder participation via the advisory committee. Our industry will be represented with a seat on the state advisory committee. This specific provision is vital to our industry's support of this proposal.

Our membership includes trained and credentialed pesticide applicators, certified crop advisors and pesticide product registrants. Our members 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.

Input from the agricultural chemical industry is both appropriate and necessary to have a comprehensive review process. While the state advisory committee provides 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 would reside solely with the Secretary of Agriculture. Loss of our industry's involvement on the advisory committee, however, would remove our support for the bill.

Concerns with the bill language:

Our associations have appeared in qualified support of a previous version of this bill where we identified parts of the bill that we would like to see changed: the definition of the word "article" in section 1; the unlawful acts provisions in section 4; and, the penalty provision in section 15.

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

New Sec. 4, Line 18. The new unlawful act language in this section does not require an intentional act, apart from "knowingly allowing to grow" a noxious weed. We would recommend amending the language to require actual knowledge of the presence of a noxious weed and require violations of the act to be "knowingly committed." Actual knowledge should be a requirement for a violation under all of the potential violations of the act, especially as the bill enhances criminal penalties as proposed in Section 15.

New Sect. 15, beginning on Line 16. The proposed language in this section would double the amount of monetary criminal penalties, even for unintentional acts, and remove the maximum cap on fines. We recommend that the language require a "knowing" or intentional act to be deemed guilty of a criminal act, and further recommend retaining 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 2583, 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 include input from a noxious weed state advisory committee that includes representatives from our industry.

Therefore, our associations appear in qualified support of the bill. It is our understanding that the Kansas Department of Agriculture has agreed to our proposed amendments to the bill as noted above and specified below. As such, we respectfully request that the committee amend the bill before passing it out favorably. Thank you for allowing us the opportunity to testify on HB 2583, and we will stand for questions at the appropriate time.

HB 2583 -- 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 Section 4.

(a) ... 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 special 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 was 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 presence of noxious weed plant 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.

Section 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 knowingly violate or fail to comply with any of the provisions of this act ~~and acts amendatory thereof or supplemental thereto or the rules and regulations~~

adopted pursuant to this act shall be deemed guilty of a class C nonperson misdemeanor and shall be punished, upon conviction thereof, shall be punished 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.