

KANSAS GRAIN AND FEED ASSOCIATION



Policy and Position Statements

Legislative and regulatory policy positions of the Kansas grain industry.

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Purpose Statement

This document contains the policy and position statements of the Kansas Grain and Feed Association relating to state and federal legislative and regulatory issues. It is intended to serve as a general reference for Association members, legislators, and other state officials.

Members of the Kansas Grain and Feed Association are involved in the grain storage, handling, processing and merchandising industry in Kansas. Association members include approximately 99% of the state's total licensed grain storage capacity.

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Agency Funding

KGFA supports the adequate funding, either through industry fees or the state general fund, of state regulatory agencies which manage and enforce state law and programs. KGFA also supports, where possible, state-level oversight and administration of federal rules and regulations when such authority has been provided to state agencies.

Agricultural Liens

KGFA supports the current system of prior notification of liens on agricultural commodities. Under the prior notification system, in order to perfect a lien on an agricultural commodity (growing crop), a lender to an agricultural producer must notify potential buyers of the agricultural commodity of the existence of the lien. Once notified of the existence of the lien, it is the buyer's responsibility to draft a two-party check to the producer and the lender when purchasing the agricultural commodity. KGFA opposes changing from a prior notification system to a central filing system. Under a central filing system, a lender would perfect their lien on an agricultural commodity by filing the lien with a central filing office/database. Potential buyers of an agricultural commodity, in the normal course of business, would then be required to check the central database to determine whether the agricultural commodity was subject to an existing lien. As it is often difficult to determine the precise legal name by which an agricultural producer does business (i.e., farm name, company name, business partner's name, family member's name, different versions of their own name), it can be difficult, if not impossible, to accurately verify all such possibilities in a central filing system in order to ascertain the existence of a lien on the commodity. Because a central filing system would unfairly shift the burden of exercising a lien onto the good faith purchaser of the agricultural commodity, in the normal course of doing business, KGFA opposes such a change as against sound public policy.

Biotechnology

KGFA supports agricultural biotechnology. Biotechnology includes taking a particular gene from a particular place in one organism and inserting it into the genome of a target organism to achieve a predicted result. Biotechnologies are proven to increase yields while decreasing additional input costs, providing a more bountiful and affordable food supply for American consumers. Agricultural biotechnology also enables agricultural producers to enhance environmental stewardship. KGFA believes that decisions relative to biotechnology should be based on sound science and made at the national level. KGFA opposes unreasonable regulations and those not based on sound science.

Conservation Reserve Enhancement Program

KGFA opposes spending public money to pay landowners to permanently forfeit their water rights and retire whole field acreage for enrollment into the Conservation Reserve Enhancement Program (CREP). Such efforts have a negative economic impact on rural communities from the loss of jobs, and state and local taxes.

Contamination Remediation Reimbursement

KGFA supports the Agricultural and Specialty Chemical Remediation Act, which created the Kansas Agriculture Remediation Board and Remediation Reimbursement Program. Since adoption of the Voluntary Cleanup and Property Redevelopment Program by the Kansas Legislature in 1997, an increasing number of agricultural-related sites have been identified by the Kansas Department of Health and Environment and the Environmental Protection Agency for environmental remediation to soil and ground water. The Reimbursement Program enables agribusiness faced with large costs associated with soil or groundwater remediation to receive financial assistance. KGFA supports this industry-wide approach to addressing contamination caused by agricultural and specialty chemicals.

County/Local Home Rule

Environmental groups support legislation that would empower counties and other forms of local government to adopt local environmental regulations that would have a negative and costly impact on agribusiness. In addition to significant cost impacts, the adoption of local or county environmental rules and regulations would dramatically increase the amount of red-tape already required by state and federal laws and regulations. Therefore, KGFA supports statewide laws and regulations governing agriculture which are necessary, reasonable, affordable, and science-based.

Environmental Protection through Precision Agriculture

KGFA is committed to the protection of the environment. "Precision Agriculture" involves the precise use of fertilizers, chemicals and micronutrients according to the varying soil types and/or fertility levels that exist in the field. Production agriculture, using technology and products provided by agribusiness, are making environmental gains through the precise use of agricultural inputs. These gains have been made possible through technological advances such as soil and tissue testing methods and formulation technologies.

Farm Bill Programs

KGFA opposes programs that idle environmentally sound and productive cropland. Such programs hurt Kansas rural communities and U.S. agriculture's competitiveness in the world. KGFA supports scaling back the Conservation Reserve Program (CRP) to target only truly environmentally-sensitive acreage. History demonstrates that supply management does not work. Producers should make their own management decisions concerning what, where, and how much to plant.

Fee Fund Integrity

State law creates various regulatory programs, grants state agencies the authority to carry out those programs, and authorizes the agencies to assess fees on the regulated industry to cover the costs of administering the programs. As a heavily-regulated industry, KGFA members pay multiple fees to various agencies to cover the costs

involved in the administration of those regulations. KGFA supports those fees being used specifically for the limited purpose of administering the programs for which they are assessed. Any other use of those funds would be considered an unlawful misappropriation. KGFA opposes industry fees being deposited into the state general fund for any use not directly related to the legislative purpose. KGFA also supports agencies lowering industry fees, when possible, if the fees generate more revenue than is necessary to administer the program.

Fertilizer/Chemical Containment

KGFA supports the establishment of fertilizer and pesticide containment regulations which require bulk pesticide and fertilizer storage facilities to construct secondary containment structures around storage tanks, and pour concrete, sloped pads for loading and unloading fertilizer. These containment facilities help minimize fertilizer and agricultural chemical product loss to the environment. In addition, KGFA supports property tax policy which prohibits increases to a facility's property value due to the installation of secondary containment structures required by state regulation.

Food Disparagement

Production agriculture is the constant target of activist group misinformation campaigns, leading to confused, and sometimes fearful consumers. This erosion of confidence in the food supply must be countered with some restriction on the ability of anyone with the price of a full-page newspaper ad to disparage food products without verifiable evidence of their charges. Public confidence in the food supply will continue to erode if activist attacks are not placed in their appropriate context. It does little good for industry to talk about the value, quality and safety of its products if activists tell the public that those same products are dangerous. KGFA supports legislation that would hold some forms of non-commercial speech to standards of verification similar to those standards to which commercial advertisers must adhere.

Free Market

KGFA supports the free market system and believes state governments should refrain from adopting laws that restrict marketing options for agricultural producers or agribusiness. While the federal government and state governments clearly have a role in protecting against fraud and deception, agricultural producers and agribusiness interests have a responsibility to be informed and to make educated decisions that best suit their needs. Therefore, KGFA supports a marketplace free of government intervention and overregulation.

Government Competition with the Private Sector

KGFA opposes the use of public funds to establish or expand any government program which directly competes with the private sector.

Government Fees and Charges

KGFA recognizes that it costs money to operate government programs and supports the assessment of reasonable fees for those services. However, KGFA is opposed to the practice of sweeping user fee fund balances into the state general fund. KGFA also believes that fee increases should be the last resort, and that any new fee or fee increase should meet the following criteria: (1) how has the agency cut costs to meet expenses; (2) what efficiencies have been obtained; (3) what service will be provided, who are the beneficiaries, and how does this compare with who is being asked to pay, and; (4) how will the agency be held accountable for the additional funds.

Grain Indemnity Fund

KGFA opposes the establishment of a grain indemnity fund to offset producer losses in the event of a grain elevator bankruptcy. There have been minimal producer losses due to a grain elevator failure in Kansas since 1986, giving Kansas one of the best records in the country. KGFA believes an indemnity fund would create a moral hazard that could encourage the type of high risk actions which might lead to failure.

Grain Inspection

KGFA supports the Kansas Grain Inspection Service, Inc. (KGIS) as the official grain inspection service for the state. KGFA believes KGIS, operating as a private inspection service under the supervision of the USDA Grain Inspection, Packers and Stockyards Administration, provides higher quality, more efficient service to the grain industry than the previous state-run program.

Grain Marketing Compact

KGFA opposes the creation of a state, or multi-state, grain-marketing compact. Markets today are international in nature and should not be influenced by state governments. States should not attempt to set prices or control grain markets.

Grain Quality

Our industry is committed to maintaining grain quality while grain is in storage and being delivered to the customer. Quality assurance begins on the farm, and the task of providing a quality product to the customer is a team effort involving all segments from farm to table. It is often the customer who determines the quality of the grain demanded and received through the grade they purchase.

Highway Funding

The State Highway Fund is used for the maintenance, improvement, and expansion of state managed roadways. It's funded through a motor vehicle fuel tax. Annually, the legislature uses money from the State Highway Fund to cover other general budget needs. In order to ensure that our industry is able to safely and consistently move grain to market, we need adequate funding for our State Highway Fund. KGFA supports adequately funding highway projects through the motor vehicle fuel tax, but opposes the use of the State Highway Fund for other state expenses.

Immigration

KGFA's position is that immigration policy should be established uniformly at the federal level. KGFA works with a large coalition of businesses and organizations to ensure that any immigration reform legislation does not unfairly shift the burden of immigration enforcement from the government onto employers. KGFA opposes any state-level immigration enforcement legislation.

Initiative and Referendum

KGFA opposes statewide initiative and referendum legislation that has been implemented in other states (Missouri, Colorado, California, etc.) Such authority employs the functions of direct democracy to allow the public to change state law by popular vote. These systems allow the majority to strip away the rights and protections of minority groups. As rural, and agriculture-based, parts of our state continue to lose population, an initiative and referendum system could be used to the detriment of agriculture resulting in unreasonable regulations or the prohibition of common practices in the production agriculture and grain storage industries.

Moisture Meter Inspection

Moisture meters are used at elevators to determine grain moisture, which is a factor in the price paid to the producer. As such, state law requires moisture meters to be tested annually by a licensed testing company and registered technician. However, KGFA opposes the establishment of a state-wide moisture meter inspection program because such a program would create unnecessary costs on industry. Additionally, KGFA opposes the prohibition of the commercial use of non-NTEP moisture meters that are able to maintain tolerance.

Private Property Rights

Private property rights are a basic foundation of our nation and our free enterprise system. Increasingly, laws and regulations infringe upon those rights. KGFA supports the Kansas private property rights law, passed in 1995, that requires state agencies to analyze any "takings" implications of their regulatory actions.

Railroad Leasing Act

KGFA supports the Railroad Leasing Act. In 1997, KGFA helped spearhead legislation meant to provide reasonable protections against exorbitant lease rates and unreasonable liability clauses for grain storage facilities located on railroad leased property. Many of these facilities ship and receive grain, feed, fertilizer and bulk pesticides by rail. There is a public interest in maintaining agribusinesses located on railroad-leased property. The Railroad Leasing Act safeguards against arbitrary contract termination and forfeiture of assets without compensation. KGFA supports strengthening the Railroad Leasing Act to ensure that all track lease agreements are subject to the provisions of the Act, and to grant lessees the right-of-first refusal to purchase the property on which their facility is located if the railroad ever sells.

Regulatory Burden

KGFA opposes the growth of unnecessary and unreasonable regulations. In 2018, KGFA supported legislation that requires state agencies to report on the impact that any proposed regulation would have on the regulated industry, and possibly to stop proposed regulations that would have an economic impact on the regulated industry of \$3 million over two years. This legislation, which was signed into law, is meant to restore the balance of power in our state government.

Scrap Metal Theft

As scrap metal theft has recently increased in the agricultural industry and in rural parts of the state, members of our industry have suffered economic harm from this activity. For this reason, KGFA supports legislation to increase the criminal penalties for scrap metal theft to serve as a deterrent to this activity. KGFA also supports increased regulations on scrap metal dealers, to include mandatory record keeping of scrap metal transactions and parties.

State OSHA

KGFA opposes the establishment of a state-level OSHA program. In 2015, the Kansas Department of Labor performed a feasibility study on whether the State should partner with the US DOL to establish a state-level OSHA program. The study showed the total cost of implantation would be \$3.2 million dollars split equally between the federal government and the state. The state portion would come from the state general fund, or from civil fines or other funding mechanisms approved by the legislature. The state would have three years to develop a plan, and OSHA would determine whether the plan met current Federal OSHA standards. Currently, 25 states have a state-level OSHA program. Following the study, the issue was tabled as a result of the overall cost of the program and lack of industry support.

Taxes

KGFA opposes the establishment of any new taxes, which would be a disincentive for economic development in the state by discouraging new businesses from expanding. KGFA also opposes eliminating existing sales tax exemptions and expanding taxes on services. Further, the Association opposes the imposition of sales tax on agricultural inputs or raw agricultural products and opposes a tax on inventories. Grain companies are good corporate citizens and gladly support their communities, schools and local units of government through reasonable property taxes. Thus, KGFA opposes overly burdensome property tax assessments.

Warehouse Licensing

KGFA supports maintaining the Kansas Grain Warehouse Licensing Program as a Division of the Kansas Department of Agriculture. The Grain Warehouse Division is the regulatory arm, which ensures all public warehouses (grain elevators storing producer grain) are financially sound. Given the consumer protection nature of the warehouse program, KGFA supports the use of state general fund money when needed.

Water Plan Fund

A portion of the registration fees on pesticides products, and fertilizer tonnage inspection fees, are used to fund the State Water Plan (SWP). In 2017, bills were introduced seeking to increase those fees, and others, for additional revenue for the fund. As our industry fees are already higher than those in our surrounding states, KGFA opposes any legislation seeking to increase fees, or create new fees, on our industry for the purpose of funding the SWP. By statute, the SWP is to receive \$8 million in funding (\$6 million from State General Fund and \$2 million from Economic Development Initiatives Fund), but in recent years have been swept into the state general fund to help fill state budget deficits. KGFA supports the restoration of those transfers and adequately funding water initiatives in Kansas.

Weights and Measures

KGFA supports the privatized weights and measures program in Kansas. The Association applauds the Department returning integrity to the program. Scales, both large and small, are used throughout the grain and feed industry. They are an integral part of doing business and their accuracy is of the utmost importance to a firm's bottom line. Use of scales in the grain and feed industry is unlike any other since the market itself provides a built-in set of checks and balances since goods are both bought and sold over the same scales. Consequently, any inaccuracy impacts the company in the same manner as the producer. Further, since grain is sold by weight, and outgoing shipments go to entities that also have scales, inaccuracies are quickly brought to light. KGFA also supports measures to strengthen the program through increased educational certification requirements for service company technicians.

Workers Compensation

KGFA supports current reform efforts in our state Workers' Compensation system which provide adequate protections and fair compensation to employees suffering job-related injuries, while keeping the costs to business fair, reasonable and as low as possible to maintain a healthy state program.

Workforce Training

KGFA supports legislative policies and funding priorities which promote coordination of resources and investment in a ready workforce that is prepared to participate and meet the needs of the grain handling and storage industry and agribusiness. This includes state investment in the state land grant universities and in secondary and post-secondary investment in vocational and technical training.
