

# 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

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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 engaged 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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## **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 incredibly difficult 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 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 (CREP)**

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 requiring environmental remediation to soil and ground water. The Reimbursement Program enables agribusinesses to receive financial assistance for costs associated with soil or groundwater remediation. KGFA supports this industry approach to addressing agricultural and specialty chemical contamination.

### **County Home Rule**

Environmental groups support legislation that would empower counties and other levels of local government to adopt environmental regulations that would have a negative and costly impact on agribusiness. In addition to significant costs, the adoption of local environmental regulations would dramatically increase the administrative burden already required by state and federal rules. Therefore, KGFA supports statewide laws and regulations governing agriculture which are necessary, reasonable, affordable, and science based. KGFA opposes the passage of county home rule.

### **Electric Utility Rates**

Kansas has the highest utility rates in the Midwest. These high costs cause our industry to be less competitive than elevators located in neighboring states. For this reason, KGFA supports policies that would lower electric utility rates for Kansas ratepayers.

### **Elevator Safety Inspection Program**

Legislation passed in surrounding states (Colorado, Missouri, and Oklahoma) created state-wide elevator safety inspection programs for all elevators, man-lifts, and industry conveyance systems. These laws placed large regulatory costs on the grain industry in those states. For this reason, KGFA opposes the passage of any similar legislation in Kansas that does not specifically, and completely, exempt the grain and feed industry.

### **Farm Bill / CRP**

KGFA opposes state and federal programs that remove environmentally sound and useful cropland from agricultural production. 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 only target acreage that is truly environmentally sensitive. Experience demonstrates that national supply management does not work. Agricultural producers should make their own management decisions concerning what, where, and how much to plant.

### **Fee Fund Integrity**

KGFA supports the assessment of fees that are used specifically for the limited purpose of administering the regulatory programs for which they are assessed. Any other use of industry fees is an unlawful misappropriation of that fee fund. For this reason, KGFA is opposed to the practice of sweeping fee fund balances and opposes use of industry

fees for any purpose not directly related to its statutory purpose. KGFA also opposes industry fees being deposited into the state general fund.

### **Fertilizer/Hazardous Chemical Regulation**

KGFA supports the regulation of fertilizers and hazardous chemicals which require loading pads and other secondary containment structures to minimize product loss to the environment.

### **Food Disparagement**

Production agriculture is often the target of activist group misinformation campaigns, leading to confused consumers. Public confidence in the food supply may continue to erode if activist attacks are not placed in their appropriate context. 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 and believes state governments should refrain from adopting laws that restrict marketing options for agricultural producers or agribusiness. While the federal 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. 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**

KGFA recognizes that it costs money to administer government programs and supports the assessment of reasonable fees for those services. KGFA supports the adequate funding, either through industry fees or the state general fund, of state regulatory agencies which enforce state laws and regulations. KGFA 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 can be obtained; (3) what service will be provided and who are the beneficiaries, and; (4) how will the agency be held accountable for the additional funds. KGFA supports agencies lowering industry fees whenever those fees generate more revenue than is necessary to cover the cost of administering the program.

## **Grain Indemnity Fund**

KGFA opposes the establishment of a grain indemnity fund to offset producer losses in the event of a grain elevator bankruptcy. The Kansas grain industry has experienced minimal producer losses due to a grain elevator failure since 1986, giving Kansas one of the best records in the country. KGFA believes an indemnity fund would increase costs and would also create a moral hazard that could encourage the type of high-risk actions that might lead to a grain elevator failure.

## **Grain Inspection**

KGFA supports Kansas Grain Inspection Service, Inc. (KGIS) as the official grain inspection service for the state. KGIS, operating as a private inspection service under the supervision of the USDA Agricultural Marketing Service, provides a high quality, efficient service to the grain industry.

## **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. In addition, 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.

## **Highway Fund**

The State Highway Fund is used for the maintenance, improvement, and expansion of state managed roadways. It is funded through a motor vehicle fuel tax. 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. However, the state legislature often uses money from the State Highway Fund to cover other general budget needs. KGFA supports adequately funding highway projects through the motor vehicle fuel tax and opposes the use of the State Highway Fund for other state expenses.

## **Immigration**

Any immigration reform legislation should not unfairly shift the burden of immigration enforcement from the government onto employers. KGFA opposes any state-level immigration enforcement legislation, as immigration policy should be established and enforced uniformly at the federal level.

## **Initiative and Referendum**

KGFA opposes statewide initiative and referendum legislation that has been implemented in other states, such as Missouri, Colorado, and California. 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, agricultural 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. 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 place unnecessary costs on our industry. Additionally, KGFA opposes the prohibition of the commercial use of non-NTEP moisture meters that are able to maintain tolerance.

## **Nuisance Abatement**

Certain counties have sought passage of legislation to allow them to order the removal or abatement of nuisances from land within an unincorporated area of the county. To ensure that agribusiness facilities are not impacted by these measures, KGFA opposes the passage of similar legislation that does not specifically, and completely, exempt the grain and feed and agribusiness industries.

## **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. By using modern technology, better formulation pesticide products, soil testing methods, and precision application of agricultural inputs, modern production agriculture has made great environmental gains.

## **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**

There is a public interest in maintaining agribusinesses located on railroad-leased property. For this reason, KGFA supports the Railroad Leasing Act, which, since 1997, has provided reasonable protections against exorbitant lease rates and unreasonable liability clauses for grain storage facilities 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. KGFA supports legislation to require 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. KGFA supports passage of a constitutional amendment to increase legislative oversight of executive agency rules and regulations.

## **Scrap Metal Theft**

As scrap metal theft has increased in the agricultural industry and in rural parts of the state, our industry has suffered economic harm from this activity. 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 certain scrap metal transactions.

## **State Grain Warehouse Program**

The grain warehouse division of the Kansas Department of Agriculture is the regulatory agency that ensures all public grain warehouses in the state are financially sound. KGFA supports maintaining this state program in addition to the federal grain warehouse program. Given the consumer protection nature of the program, KGFA supports the use of state general fund money to support the program.

## **State Level OSHA Program**

Approximately half of the states have a state-level OSHA program. 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. Due to the proposed cost of the program, and lack of industry support, the legislature did not pursue the proposal.

### **Taxes (Sales)**

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 opposes eliminating existing sales tax exemptions allowed for our industry. In addition, KGFA opposes placing sales taxes on professional services, agricultural inputs, raw agricultural products, and inventories.

### **Taxes (Property)**

Grain companies are good corporate citizens that readily support their local communities, schools, and local units of government through the assessment of reasonable property taxes. However, KGFA opposes overly burdensome property tax assessments on our industry. In addition, KGFA opposes tax policy which allows for increased assessed property values on our industry, including increased assessments due to the installation of secondary containment structures for chemical storage. KGFA also supports adoption of property tax policy that provides equal treatment of farmer-owned grain storage and commercial grain storage facilities.

### **Water Plan Fund**

The State Water Plan (SWP) is funded, in part, by fees on pesticides products and fertilizer. Legislation was recently introduced to increase those fees to create additional revenue for the SWP fund. As our industry fees are already higher than those in our surrounding states, KGFA opposes any legislation that would increase fees, or create new fees, on our industry. By statute, the SWP is to receive \$8 million in funding annually (\$6 million from the state general fund and \$2 million from Economic Development Initiatives Fund). Since 2009, those funds were not appropriated for the SWP. KGFA supports the restoration of those statutory transfers to fund the SWP.

### **Weights and Measures Inspection Program**

KGFA supports the privatized weights and measures program in Kansas. Large and small scales used in the grain and feed industry are an integral part of doing business and their accuracy is of the utmost importance. 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 as goods are both bought and sold over the same scales. Consequently, any inaccuracy impacts the company in the same manner as the producer. Since grain is marketed 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 Development**

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. KGFA also supports policies that would remove barriers to workforce training, to include removal of liability on businesses that participate in work-based learning programs for students.

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