

KANSAS AGRIBUSINESS RETAILERS ASSOCIATION



Policy and Position Statements

Legislative and regulatory policy positions of the Kansas agribusiness industry.

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Purpose Statement

This document contains the policy and position statements of the Kansas Agribusiness Retailers 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.

The Kansas Agribusiness Retailers Association's approximately 700 members are primarily retail facilities that supply fertilizers, crop protection chemicals, seed, petroleum products, inputs, and agronomic expertise to Kansas farmers.

KARA's membership includes ag-chemical and equipment manufacturing firms, distribution firms and other various businesses associated with the retail crop production industry.

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Agency Funding

KARA supports the adequate funding of state regulatory agencies which manage and enforce state law and programs. KARA also supports state-level oversight and administration of federal rules and regulations when such authority has been provided to state agencies.

Agriculture in the Classroom

KARA supports programs that advocate for the education of agriculture to Kansas students to help them better understand the production of food and fiber in Kansas. Such programs provide valuable education about agriculture, its importance to the Kansas economy, and to our free market economy.

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. Agricultural biotechnology has proven to safely increase yields, provide a more bountiful and affordable food supply, and create new medicinal benefits for consumers. Agricultural biotechnology also enhances environmental stewardship. KARA support biotechnology policy that is based on sound science and uniformly implemented. KARA opposes biotechnology policy that is either unreasonable or not based in science.

Conservation Reserve Enhancement Program

KARA opposes spending public money to pay landowners to permanently forfeit their water rights and retire whole field acreage for enrollment into either the federal Conservation Reserve Program (CRP) or Conservation Reserve Enhancement Program (CREP). Such efforts idle environmentally sound cropland, negatively impact rural communities, and decrease the state and local tax base. KARA supports conservation programs that target specific, narrow, environmentally sensitive acres, such as streambanks.

Containment of Fertilizer and Agricultural Chemicals

KARA supports secondary containment regulations for fertilizer and pesticide which protect against product being lost to soil or water from storage facilities. These regulations require secondary containment structures around pesticide and fertilizer storage tanks, and sloped concrete loading pads. KARA supports the requirement of secondary containment regulations on nutrient and crop protection products whether the storage facility is private or commercial.

Contamination Remediation Reimbursement

KARA supports the Agricultural and Specialty Chemical Remediation Act (the 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, agricultural-chemical sites have been identified by the Kansas Department of Health and Environment for environmental remediation to soil and ground water. The Act provides financial assistance to Kansas agribusinesses faced with large costs associated with soil or groundwater remediation. KARA supports this program to address contamination caused by agricultural and specialty chemicals and supports amending the Act to ensure the fund is properly sized to cover the needs of the industry.

County Home Rule

Legislation is often proposed to authorize local units of government to adopt environmental regulations that would have a negative and costly impact on agribusiness. Such local regulations would increase the administrative burden on our industry from state and federal rules. Adoption of such environmental regulations would require adherence to numerous standards and rules by various regulatory bodies throughout the state. Therefore, KARA supports state level pre-emption of regulations on the agricultural industry that are reasonable, affordable, and science based. KARA opposes the passage of county home rule in Kansas.

Electric Utility Rates

Kansas has the highest utility rates in the Midwest. These expenses increase costs of doing business for our industry and cause us to be less competitive than our neighboring states. For this reason, KARA supports policies that would lower electric utility rates for Kansas ratepayers.

Environmental Protection through Precision Agriculture

Using technology and modern agricultural products, production agriculture is making impressive environmental gains. "Precision Agriculture" involves the use of fertilizers, chemicals, and micronutrients according to the varying soil types and/or fertility levels that exist in the field. Soil and tissue testing methods have also advanced, as well as pesticide formulation technologies. Our industry is committed to the protection of the environment using those new technologies.

Environmental Regulations and Risk-Based Analysis

KARA supports the use of risk analysis and cost-benefit analysis in environmental regulations and standards. Such analytical tools recognize that an environmental hazard is a circumstance with the potential to cause harm to people or the environment and risk is the probability of exposure to that hazard. The potential severity of harm caused by the hazard, combined with the probability of exposure to the hazard, constitutes the actual risk. A hazard with no probability of exposure poses no risk of harm. Use of such risk-based analysis enables regulators to make informed decisions and use limited funds to address real, rather than perceived, problems. KARA supports use of risk analysis and cost-benefit analysis which allows regulators to set sound, cost-effective policies.

Environmental Voluntary Audits

KARA supports the use of voluntary environmental self-audits as an innovative method to help industry comply with environmental regulations without being subject to onerous penalties for unknowing violations. The fertilizer and agricultural chemical industry has been on the forefront of environmental protection for many years. KARA led efforts to pass the fertilizer containment law to protect our groundwater and worked with the Kansas Department of Agriculture to establish bulk pesticide containment regulations. KARA also worked to pass the state pesticide management area law to address local situations regarding crop protection product use. In addition, KARA administers the Kansas Certified Crop Adviser program, a voluntary professional certification program that requires applicators to pass a national and state exam and then maintain certification by acquiring 40 Continuing Education Units every two years. KARA recognizes the need for compliance with environmental laws. Environmental protection is best achieved through cooperation rather than confrontation with regulatory authorities.

Fees / Fee Fund Integrity

State laws create regulatory programs, grant state agencies the authority to carry out those programs, and authorize agencies to assess fees on regulated industries to cover the costs of administering those programs. As a highly regulated industry, KARA members pay fees to various agencies to cover the costs of administering those regulatory programs. KARA recognizes that paying reasonable fees for services is a legitimate cost of doing business, and those parties deriving a benefit from the program should help pay for the cost of the program.

KARA supports agencies lowering industry fees when the fees generate more revenue than is necessary to administer the program. Fee increases should be the last resort, and any new fee or fee increase should meet certain criteria: (1) has the agency attempted to cut costs to meet expenses; (2) what efficiencies have been obtained; (3) what service will be provided, (4) who will benefit, and (5) how will the agency be held accountable for the additional funds.

KARA supports industry fees being used for the specific purpose for which they were assessed. Any other use of those funds is a misappropriation of the fees. Fees paid by our industry should be deposited into fee funds for the agencies to use in carrying out the programs. KARA opposes industry fees being deposited into the state general fund for uses not related to their specific statutory purpose. Fees should not be used to offset the loss of State General Fund funding. Fee fund balances should not be “swept” into the General Fund to balance the state budget.

Fertilizer Constituent Standards

Any standard for maximum levels of minor non-nutrient constituents in fertilizer materials should be health risk-based and supported by sound scientific reasoning. Any standard for heavy metals/trace constituents should be uniformly implemented throughout the United States.

Food Disparagement

Production agriculture is the constant target of activist group misinformation campaigns, leading to confused, and sometimes fearful consumers. Public confidence in the food supply will continue to erode if activist attacks are not placed in the appropriate context. Erosion of confidence in the food supply must be restricted from baseless allegations. KARA 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.

Food Quality Protection Act

The Food Quality Protection Act (FQPA) was passed into law in August 1996. The act established new safety standards that pesticides must meet to be registered or re-registered by the EPA. The FQPA introduced into the regulatory process significant new requirements for testing and risk assessment and allows the EPA considerable discretion in interpreting these requirements. The FQPA requires risk assessments for pesticides be based on all sources of non-occupational exposure, including food, drinking water and residential uses. Under FQPA, decisions must be based on “reliable” and “available” information. The EPA has the discretion to apply an additional safety factor to a risk assessment for children’s health issues. The EPA should implement the FQPA in a fair and objective manner using the best scientific methodology and data and the most accurate information about actual pesticide use. Appropriate implementation of the FQPA is vitally important for Kansas agriculture, public health, and to ensure continued availability of essential crop-protection and pest-control technology.

Free Market

KARA supports a marketplace free of government intervention and overregulation.

Government Competition with the Private Sector

Government should not use tax dollars to establish programs that compete with the private sector. KARA strongly discourages the introduction or expansion of any tax-subsidized program that competes with the private or not for profit sectors.

Highway Funding

The State Highway Fund is financed through a tax on motor vehicle fuel and used for the maintenance, improvement, and expansion of state managed roadways. The legislature has historically used money from the State Highway Fund to cover other general budgetary needs. In order to ensure that our industry is able to safely traverse our roads, KARA supports the adequate funding of our State Highway Fund through current funding mechanisms, and opposes the use of the State Highway Fund for other state expenditures.

Homeland Security

Ammonium Nitrate is a crop nutrient readily used throughout Kansas. KARA supports the current level of regulation of Ammonium Nitrate by the U.S. Department of Homeland Security, but would oppose additional, duplicitous regulations at the state level.

Immigration

KARA is working with a coalition of organizations to make sure that any immigration reform legislation protects businesses and does not unfairly shift the burden of enforcement from the federal or state government onto industry. Immigration law should be established uniformly at the federal level, and KARA opposes any state-level immigration enforcement legislation.

Initiative and Referendum

KARA 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 majority 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 over-regulate or prohibit common practices in production agriculture.

Kansas State University Extension Office

KARA supports KSU extension and research, which is an important component of KSU's mission as the state's land-grant university. KSU's work in this area benefits agriculture and has a positive impact on all Kansans.

Noxious Weed Law

The Kansas Noxious Weed Law entrusts noxious weed eradication to Kansas counties. Monitoring noxious weeds and enforcing their control and eradication is an appropriate function

for county government. However, the sale and application of tax-subsidized chemicals to control noxious weeds on private lands should not be exclusive to county weed departments. State law should allow farmers to purchase tax subsidized chemicals from agricultural retailers for the control of noxious weed.

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, KARA opposes the passage of similar legislation that does not specifically exempt agribusiness.

Organic Food Labeling

Congress adopted the first national definition and standards for certification of organic foods as part of the 1990 Farm Bill. Federal standards require that any food labeled organic truly be produced without the use of commercial fertilizers and pesticides. KARA supports the establishment of a state organic foods program, providing it includes a strong inspection program to insure consumer protection. Any organic labeling program must be strictly enforced and tested to ensure consumers do not pay premium prices for a product which is not truly organic, i.e., it is produced without agricultural chemicals. However, food considered organic will not contain fewer potential carcinogens than conventionally produced foods. In fact, chemicals produced naturally account for 99.99% of all potential carcinogens we consume in our food. That does not mean organic food is necessarily less safe than non-organic because our bodies easily handle and discard these low levels of natural and man-made carcinogens.

Pesticide Disposal and Container Recycling

KARA supports programs to encourage the voluntarily collection and disposal of waste pesticides. KARA has also worked with state agencies to coordinate pesticide container collection events to ensure containers are disposed of or recycled appropriately. KARA strongly supports these voluntary efforts to provide an environmentally sound method of disposing of waste pesticides and recycling containers.

Pesticide Management Areas

KARA is committed to the protection of groundwater and was a principal supporter of legislation establishing Pesticide Management Areas (PMA) in the state. PMAs allow the Kansas Department of Agriculture (KDA) to adopt pesticide regulations for specific problems or needs if the EPA identifies a specific chemical which may leach into groundwater in Kansas. The first PMA developed under this law was an atrazine management plan for Northeast Kansas, where KDA established stricter requirements on atrazine use in the Delaware River watershed above Perry Lake. The work involved numerous state and federal agencies, and a broad cross-section of individuals from the affected area. This PMA has resulted in the reduction of atrazine detection in Perry Lake. The PMA concept has also come into play in the Big Blue Basin above Tuttle Creek reservoir. The experience in the Delaware provided a framework not only for Kansans but also for cooperation with those on the Nebraska side of the basin. The PMA is an example of how public input should be received, how government agencies can work together, and how agencies and private interests can collaborate for the best interests of the public.

Private Property Rights

Private property rights are foundational to our nation and our free enterprise system. Increasingly, laws and regulations infringe upon private property rights. This undermines our national economy. KARA supports the Kansas private property rights law passed in 1995 that requires state agencies to explore potential "takings" implications of any state action. This law places a check on state agencies and protects the rights of Kansas citizens.

Railroad Leasing Act

In 1997, KARA helped pass legislation that created the Kansas Railroad Leasing Act. This law provides fair protections against unreasonable lease rates and liability clauses for agribusiness facilities located on leased railroad property. Many agribusiness facilities located on leased railroad property receive fertilizer and agricultural chemicals by rail. The Railroad Leasing Act provides protection against arbitrary contract termination and forfeiture of physical assets without compensation for those agribusiness facilities. KARA supports strengthening the Act by granting lessees the first right-of-refusal to buy the railroad's interest in the property on which their facility sits if the railroad's interest in the leased property is ever sold, abandoned, or lost to bankruptcy.

Regulatory Burden

In 2018, the Legislature passed House Bill 2228 which revised the state Regulations Filing Act. The revisions imposed a new requirement on executive branch agencies when adopting or amending regulations by requiring agencies to consult with affected business sectors and submit a more thorough economic impact statement to identify how regulated businesses would be affected. The revisions also require the state budget director to review the economic impact of all proposed regulations. KARA supported passage of this legislation and supports the reduction or removal of overly burdensome regulations on our industry. Public input in state agency decision-making results in better decisions and programs. Government should maintain an open process for establishing rules and regulations and should seek public input from the regulated industry.

Scrap Metal Theft

Scrap metal theft is a persistent issue in the agricultural industry and in rural parts of the state which causes economic harm. For this reason, KARA supports legislation to increase the criminal penalties for scrap metal theft. KARA also supports increased regulation of scrap metal dealers, to include mandatory record keeping of certain scrap metal transactions and parties.

State OSHA Program

Approximately one-half of the states have a state-level OSHA program in partnership with the US DOL. In 2015, the Kansas Department of Labor performed a feasibility study on whether the Kansas should establish a state-level OSHA program. The study revealed that the total cost to implement such a program would be \$3.2 million dollars, which would be split between the state and federal government. The state portion would come from the state general fund, or from civil fines or other funding mechanisms approved by the legislature. KARA opposes a state-level OSHA program for multiple reasons, to include: the cost of implementation, potential additional fees imposed on industry, and a positive working relationship with the regional OSHA offices.

State Water Plan

KARA supports the State Water Plan Fund (SWPF) to enhance water quantity and quality in Kansas. KARA supports the use of the SWPF to provide for best management practice research projects focused on minimizing the impact of agricultural fertilizer and pesticide use on the Kansas environment. A portion of the registration fees on pesticides products and fertilizer tonnage inspection fees are used to fund the SWPF. These industry fees are higher than similar fees in our surrounding states. The \$1.67 per ton fee assessed on the sale of commercial fertilizers is much higher than most other states. KARA opposes the use of the SWPF to purchase and retire water rights. KARA also opposes any increase in fees, or the creation of new fees, on our industry for the SWPF. By statute, the SWPF is to receive \$8 million annually in state public funding (\$6 million from State General Fund and \$2 million from Economic Development Initiatives Fund). The Legislature and Governor's commitment to partial funding of the SWPF with State general funds is crucial to adequate funding for the SWPF and important in ensuring all Kansans who benefit from water resources, also share in the cost of that benefit. In recent years, the SWPF has not received these funds. KARA supports the restoration of those transfers to adequately fund Kansas water initiatives.

Supplemental Environmental Programs

KARA supports the use of Supplemental Environmental Programs (SEPs) by the Kansas Department of Agriculture (KDA) and the Kansas Department of Health and Environment (KDHE) as an alternative to traditional fines for first time violators. SEPs are an innovative approach that convey long-term environmental protection through cooperation. SEPs are preferred to civil penalties as they provide environmental benefits as opposed to merely punitive fines. SEPs provide long-term benefits to society, increase industry awareness, and avoid the stigma of a "fine" on the industry participant.

Sustainable Agriculture

Sustainable agriculture practices, including the agronomic use of fertilizers and pesticides, work to protect our environment in multiple ways. Sustainable agriculture helps protect our environment by maintaining soil fertility, enhancing water conservation, and reducing soil and water erosion and surface water contamination. Sustainable agriculture reduces the need for tillage and allows farmers to practice conservation tillage methods. This helps to retain more crop residue on the soil, reduces soil and water erosion, and enhances soil fertility through the decomposition of the crop residue. The use of commercial fertilizers can decrease runoff and potential nitrate contamination of water sources. The agronomic use of fertilizers and pesticides – known as "precision agriculture" - has also helped to preserve millions of square miles for wildlife habitat. 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. Use of modern technology, better formulation pesticide products, soil testing methods, and precision application of agricultural inputs has made great environmental gains. KARA strongly supports sustainable agriculture systems and rejects misguided bias against the use of pesticides and fertilizer products. Our industry works along with their farmer customers to provide research-based, scientific information on best management practices, and use soil tests to accurately determine fertilizer needs through precision agriculture. KARA opposes any policy which arbitrarily sets fertilizer and pesticide use reduction targets without scientific basis.

Taxes

KARA opposes the establishment of any new taxes which would discourage economic development in the state.

Sales Tax: KARA opposes placing sales taxes on services and the elimination of sales tax exemptions for business.

Property Tax: Containment structures built for environmental protection should not increase property valuation or ad valorem property tax purposes. These environmental protection structures are a cost of doing business, are required by regulation, and do not produce income or otherwise add value to the property. KARA urges the Property Valuation Division (PVD) to stand firmly behind its 1991 policy that these structures do not add value to the property.

Income Tax: Certain government regulations require expensive structures and equipment for compliance yet do not enhance revenue for businesses. These mandates are often a hidden tax on business. For this reason, KARA supports a state income tax credit for business investment in machinery, equipment, and structures required by state environmental regulations.

Unmanned Aerial Systems

KARA supports the production and development of Unmanned Aerial Systems (UAS) for agricultural purposes. Farmers and ranchers are increasingly using UAS technology to optimize inputs and improve on irrigation efficiency and water management. Kansas is home to a robust aviation industry that supports new technologies that will be beneficial to production agriculture. The economic impact of UAS integration is estimated to reach \$2.94 million by 2025 and will create 3,716 jobs nationwide. KARA supports making UAS subject to current state privacy laws but opposes overreaching federal regulations and legislative restrictions that impede use of UAS on agriculture.

Unmanned Ground Vehicles

KARA supports the research, development, and use of unmanned ground vehicles in crop production agriculture. Unmanned ground vehicles increase efficiency in crop scouting, soil sampling, irrigation management, precision spraying, and manual weed control. Unmanned farm implements might also help address workforce challenges in agriculture. For this reason, KARA opposes regulatory hurdles to advanced technologies in agriculture.

Water Quality

Use of agricultural chemical products and fertilizers is necessary for U.S. agriculture to provide a safe, abundant, and affordable food supply for a growing world population. Without the use of these products, crop yields would decrease, costs would increase, and many sensitive ecosystems would be negatively affected. Use of these products in agriculture are managed carefully so that water quality is not impaired. Agricultural retailers invest hundreds of thousands of dollars in their facilities to appropriately store and contain agricultural chemicals and fertilizers. These structures capture leaks and spills during storage and transfer of the products. In addition, many dealerships place their storage tanks under a covering to prevent weather contamination. They also have security features in place to prevent spills caused by vandalism. On the farm, farmers and commercial applicators use best management practices when applying these products to protect water. KARA encourages the use of voluntary water quality

initiatives and cooperation with government entities rather than the mere enforcement of government regulations, especially concerning non-point source water issues.

Workers Compensation Reform

KARA supports reform efforts to our state workers' compensation system. Such reforms should focus on providing adequate protections and fair compensation to employees suffering job-related injuries, while ensuring a healthy state program and reasonable costs to business.

Workforce Training

KARA 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 agribusiness industry. These policies include adequate funding of state land grant universities, two-year colleges, and vocational and technical training.