MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
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ROLL NUMBER

DESCRIPTION

1287

2001 HOUSE AGRICULTURE

HB 1287

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1287

House Agriculture Committee

☐ Conference Committee

Hearing Date 2--2--01

Tape Number	Side A	Side B	Meter #
4	A		00 to 4130
Committee Clerk Signature			

Minutes:

1A:00 CHAIRMAN NICHOLAS: Opened the hearing on HB 1287. Representative Brandenburg.

REPRESENTATIVE BRANDENBURG: This is a Bill that is looking at Harmonization issue. It is looking at grain that is being transported into our state and making it a class B misdemeanor for any person to transport Agriculture Products into the state from other country. This Bill was around last session also. This is one that we are definitely going to look at. How are we going to deal with chemical situation and harmonization issue. You have to ask yourself. If the Canadians are able to use chemicals that we cannot use at a lower price, yet they are able to transport the grain into the US saying that it is a safe chemical but our country is saying that these chemicals are not safe for consumption of the people in the U.S.. It is a double standard. We can't use a cheaper chemical. The Canadians can. We can't import those chemicals in the US. The EPA is saying that these chemicals are not safe for the people in

the U.S. The Canadians can ship there wheat into the US. after they were grown with the chemicals.

REP. PIETSCH: This is much more legitimate and cost base reason to inspect.

REP.BRANDENBURG: House Bill 1286 and 1287 are compatible Bills. It maybe that they will have to work together. There a little bit different issues but they certainly are very close.

REP. ONSTAD: The plant in Velva. What effect will these Bill have on that plant. There is a concern whenever an issue like this arises. The plant InVelva and Carrington and those plants have to have some Canadian impute to keep those plants going. We do not in any way want to hurt them. We have to deal with that as we go through this session. We can make sure the needs of the Velva plant and Carrington plant are met. These Bills can work through that and find some amendments to take care of those needs.

CHAIRMAN NICHOLAS: I has been pointed out that 80 percent of canola now is domestic that is being used at the Velva Plant. We are headed in the right direction.

Rep Mueller: Hearing about these Bills as being companion Bills. Can you talk to me about the connection that these two bill have.

Rep. Brandenburg: The thing that we looked at is the carry over from last session. We know it is here. Looking at the trade issue and inspection fees that we need to feel that inspection fee that should we put the two bill together or. I think it is important that we keep them as separate Bills. We identify in this committee how are we going to deal with them. Should we have one Bill when we get done with it or should we have two. There may be a reason to keep them separate. There are two separate issues, the inspection fee and the chemicals.

CHAIRMAN NICHOLAS: Tell the committee that if we pass HB1287AND kill HB 1286 what would happen?

REP BRANDENBURG: I am not certain that at this time we want to kill either Bill. I t think that we need to sit down and work through them. I think with the inspection fee that we are going to throw that into the other Bill. I am not sure that we can do that. Going back to HB 1286 once we solve the fiscal cost it will work. I think that they are both important Bills. They may be tied together later but right know they are two separate Bills.

Rep. Lloyd: I don't think that NAFDA will have any effect on this Bill.

Rep Brandenburg: I have to ask legal council as to that. I donut want to give the wrong impression. Roger may have the answer to that. I think that last session the attorney general said that it was not incompatible.

REP. D. LEIIEUX: House Bill 1287 is the remake of a Bill that we had last year. We may want to put an emergency clause in this saying that as soon as the Governor signs this it gos into effect. That was one of the reasons that Gov. Schaffer vetoed this Bill last session.was because we put a delayed effect on it. The fact is in the handout and I just took the notes from last session and we can walk through them. This Bill is a food safety Bill. We in the US have had a record of providing some of the safest food in the world. If food is produced in the US it is healthy. That is what we want. HB 1287 addresses those issues. If you are going to bring an Agr. product into this country, into this state from another country. You just provide us with a certificate that says that your product that you are exporting meets what we as producers in the US ARE requiring ourselves to do. We are not imposing standards beyond what we do to our ND. farmers right now. ND, MONTANA AND MINNESOTA adhere to EPS standards.

They adhere to FDA standards. Yet one entity can produce products with chemicals that are not labeled and they may have residue on the products that that are exporting into the US .or our state of ND. Other countries are shipping their products to Canada and then Canada ships the product into our country, actually dumps in the US market. It is a proven fact that this has happened. This Bill simply states that if you want to import something into our state that you provide a certificate that says it is safe for our children.

CHAIRMAN NICHOLAS: Any other testimony.

JIM DIEPOLDER: I am speaking on behalf for the US Duram Growers and second part on my own behalf. The durum growers see these Bill as two parts. One is safety and a competitive disadvantage is the second part. Imported meal feed is being used in Texas to feed cattle. The meal could be contaminated and cause mad cow disease. We eat the hamburgers. No other Bill will promote chemical harmonization faster then this bill. We want paper work at the Canadian Boarder. The Canadians don't want to be liable. They are going to have to provide an affidavit.

CHAIRMAN NICHOLAS: How are we going to avoid the problem. We have to stay competitive. The Corn problem. Growers are loosing two bits a bushel right now on corn contamination.

If starling corn or GMO grain is cheaper to produce in another country and it gives them a competitive advantage. O.K. who are you going to buy it from them. Even thought it may not meet our food safety standards. What this Bill dose, it forces them to raise their standards to our standards. It does not impede trade. We can still buy all the grain and canola out of Canada that we want but there has to be a certificate.

You have contamination from one shipping car to another. A car load of contaminated grain go to Duluth, unloads, comes to ND with those same shipping cars and what we load here becomes contaminated because of the cars.

1A; REPRESENTATIVE NICHOLAS; ANY ONE ELSE

SPEAKER---DID NOT GET NAME. We collectively, are trying to get the FDA TO in-force existing Federal Standards. Canadians imports have been very low on the priority list in enforcing from FDA for food safety from Canadian imports.

CHAIRMAN NICHOLAS: Go ahead Curt.

CURT TRULSON: This is a food safety BILL.

If we are going to import food, cattle from other countries without standards we got problems. Can we believe the sampling problem. The Bearu has not funds to support sampling. Some of the facts that Commissioner Johnson talked about. We had asked him to do some more testing on wheat and wheat products entering ND. from our Canadian friends. Like he said they move about at the pace of conventional drift. They told us they would take thirty samples and they got 28. They said they had a hard time finding Canadian Grain. Of the twenty eight samples, they found one sample with residue and the residue was all right. The residue they found in that sample was 2-4-D. Can we believe the sampling process. I don't believe so. Again funds for sampling is not there. The FDA dose not have the people to do the sampling. This Bill simply says you must meet the ND. standards. There is very similar Bill being introduced in Montana and Wyoming. The attorney general says he has no problem supporting this Bill. He says he gets his orders from the Legislative Assembly and

they tell me what to do. As to the fiscal notes. I don't think there should be a cost to the state of ND. The Federal Government is suppose to be doing this.

1A:3190 CHAIRMAN NICHOLAS. What you are saying Curt is we can Kill HB1286 PASS 1287 because 1287 will address the Federal side of it.

Thats exactly the way it should go. That's all the comments I have

1A:CHAIRMAN NICHOLAS: Thank you Curt.

Who else offering testimony on this Bill.

LOUIS CUSTOR: I support this legislation. I brought along a Canadian Grain Commission print out. Please see printed information. The Canadian Grain Commission is telling the growers etc. to meet the standards.

Canada is very concerned what we are doing here in ND. This could really shake the tree.

WE should not lower our standards as to products from Canada.

THOMAS WYLY: Please read the Linda Rauser testimony which is attached. Imported commodities are still negatively affecting North Dakota Agricultural prices This a fair trade issue. Please Vote DO PASS ON 1287

1A:4130 CHAIRMAN NICHOLAS: We are adjourned.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1287

House Agriculture Committee

☐ Conference Committee

Hearing Date February 15, 2001

Tape Number	Side A	Side B	Meter #
1	x		2882 to 6100
Committee Clerk Signature	Edward D Elkin		

Minutes:

Chairman Nicholas: Let's move to HB 1287. We have some amendments. Who are these from?

(some discussion)

Rep. Lemieux: On page one line 3 after penalty insert ", and declaring an emergency" On line 10 remove the word "sanitary" and after line 22 insert **"Section 2. EMERGENCY.** This act is declared to be an emergency measure. I move the amendment.

Rep. Mueller: I second.

Rep. Brandenburg: Do you have a reason why the word sanitary was removed?

Rep. Lemieux: By just taking that word out we are asking for the certificate. Sanitary generally deals with livestock or plants. Grains for example are generally sanitary. We are just asking for a certificate. The reason to declare the emergency is in the last legislative assembly this same bill came forward and the Governor suggested to us as a body that he would veto this bill because it had a clause in it to keep it from going into effective until July 1, 2001. That would be the reason

for vetoing it, we as a legislative body would be able to enact this by putting an emergency clause on it so it goes into effect as soon as the Governor signs it. We are asking for the certificates.

Rep. Pietsch: In my notes from when we first heard this bill, I had written in, after penalties and to provide the appropriation. Is that no longer needed?

(some discussion)

Rep Brandenburg: I guess I know that this bill is gonna have a lot of work going in to the Senate. I don't necessarily disagree with the emergency clause, but I not sure that we worked that out. How does the committee feel?

Rep. Lloyd: I think I have somewhat the same question as Rep. Brandenburg. I recall that situation when we vetoed that bill. What was the Governor's reason for vetoing that bill? Can you talk about that.

Rep. Lemieux: The Governor just said it didn't make sense to him to have the bill pass with a delayed effective date and this bill is basically saying that the products we have brought into this state need to meet the standards set by the EPA and FDA. We in ND take a stand, if you are going to bring a product into ND you will have to meet the standards that we have to meet here. If we are not willing to stand up and do that, then we are ... I don't know what we are thinking.

Rep. Brandenburg: My concern is that we want to make this bill as workable as we can. I think that putting an emergency clause on it right now until we get it over to the Senate to work with it could be a problem. We want to walk out of here with something that works. If the Governor is going to sign this bill, it becomes effective that day. I am not emergency is the right word.

Rep. Lemieux: If the emergency clause does not get inserted in the House of Representatives it is dropped from the bill. Without that clause on the bill, if we get a full agreeing board it goes into

effective, August 1st. The fact is, this bill is a bill designed to bring the attention of one of things you have worked diligently on Rep. Brandenburg and that is harmonization. The efforts of that committee. This is a bill to emphasize that we need that scientific harmonization. This bill is somewhat of a in your face bill. But it is actually trying to bring the players into this legislative assembly and saying we need to discuss these issues here and now. Because when, if not now, when? When we are not in town? I implore you to adopt the amendments and pass the bill.

Rep. Nicholas: Would you have some folks here with the CPA and do you have any comments on this? Maybe you could give us a little update as to where we are, or what kind of progress we have made in this area.

Cal Rollfson - Attorney: I don't have any comments on the emergency clause, per say. Sanitary part is okay to delete. The major concern of the bill from our standpoint is the line 17. The criteria indicates all three criteria must be present. You would not be able to transport into ND any chemical that has no trace of a chemical not approved for use in this country. I think that some of the prior testimony indicated that might be an impossibility. That is my main concern. The issue of the planting.

Rep. Lemieux: What is the problem with having no traces of chemicals that are not approved to be used in this country?

Rollfson: My understanding is I believe there are in certain chemicals that have not been approved in tolerance levels and I am not sure that is in violation of EPA regulations. I am afraid that these tolerance levels may be in question.

Eb Vasue: In response to Rep. Lemieux's questions. They can test up to 1 trillionth levels and there's a lot of confusion and a lot of problems can be caused. There are already existing Federal laws on the import quality issues. Whether or not we have had harmonization before, the FDA

may not be enforcing it as much as they said. That's really a separate issue from that one line that Cal Rollfson mentioned. For us it would make the bill problematic for the whole country. I am not a lawyer. As to harmonization we worked well with the legislation last session and last year we worked through our Lobbyists and others. We feel it is a significant stride towards harmonization. Obviously their needs to be more and we are working quite closely with EPA to accomplish that. We think the new administration has already made progress as to working towards agribusiness and ensure we do have good trade for agribusiness. EPA is giving the staff support, we are looking towards a more joint registration process. The last few years we have been looking at this, in two to three countries, which really doesn't get to the 3-4000 products that you need to have registered with us. We weren't very happy with the past administration. How strongly they supported the kind of harmonization we wanted. One single set of tests, one single protocol for one single person. This is an issue I can assure you that all of the companies are very much involved in. I got a call directly and they are very concerned about these issues. Worldwide, if we can get one single set of standards that our companies can then run through 5 years or however long it takes, it means it would be that much simpler for our companies to get market access. That is the key here. It is much easier to get a product registered in Canada than it is here. There is no progress about he p word that accompanies the latitude used. There is not talk about the Price issues. However if you have quicker access to the market. You increase the market and competition significantly and that would definitely have beneficial results for the user community. We also think in talking registration that Federal harmonization is not to far off. We will see significant strides within the next two years. That should be good news for farmers in ND. One other issue, we worked with the harmonization interim committee last year, and we set the stage for a hearing in Washington DC. We were very satisfied with the way it went. We

think it is happening and is happening faster than it was in the past, and I think we need to set course.

Rep. Mueller: In getting back to HB 1287 you referred to the no trace as did Mr. Rolfson. Could we have language that would allay your concerns about that. I recognize that no trace is really tough. The intent here is that we are using chemicals someplace else in the North American continent that are approved here. Can we substitute some language here that would deal with the no trace issues?

Vasue: Perhaps, we would be happy to sit down with the sponsors to see what is acceptable to you and our companies.

Chairman Nicholas: If that could be accomplished do you see a problem with the way 1287 is currently structured?

Vasue: Our position on this, I need to check with people on this. Our position is always this, what is the risk of success of this? Perhaps we need some education on our part. The key part is the no trace. That little section there.

Rep. Lemieux: Could you again tell me which group you work with?

Vasue: American Crop Protection Association.

Rep. Lemieux: Could you define full harmonization? If you worked for the ACPA, what is your concern with the importation of foods and how that would have a negative effect on the Crop Protection Industry?

Vasue: Our position on this bill is more neutral. We haven't been fully monitoring this bill. What is full harmonization. Full harmonization would be a single test pool for testing of these products and registration. Right now there are separate forms of testing between the countries. Under the US rules, it's taking 10-12 years for a new product to get registered and Canada is half that time.

Rep. Brandenburg: You just had a comment on what's happened with harmonization. But before we started working with the harmonization committee. What was the rumor that made harmonization an issue. Was it looking at the map, looking at dual labeling, harmonization in motion. Before we got together and started working on crop harmonization and with crop protection, what happened before that?

Vasue: There was a lack of communication between the regulatory agencies. Less information shared. Things have changed a lot.

Chairman Nicholas: In light of the fact that the section with trace, I will hold this bill until tomorrow and ask the sub committee to take a look at this and we will take this up tomorrow morning. Hearing closed.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1287

House Agriculture Committee

☐ Conference Committee

Hearing Date 2-16--01

Tape Number	Side A	Side B	Meter #
ONE	A		620 TO 1360
Committee Clerk Signature	Edward Ulyson		

Minutes:

CHAIRMAN NICHOLAS: WE WILL OPEN ON HB 1287.

Rep. Brandenburg do you have your material here for 1287.

Rep Brandenburg: House Bill will have these amendments. Amendments are attached. Please see the attachments.

CHAIRMAN NICHOLAS: Representative has moved for a motion, is there a second. Rep. Mueller made the second, as to the amendments. The chair will entertain a motion on HB1287 as amend mended.

Mr. Chairman, before we go on. Yesterday there was an amendment purposed that also included an emergency Claus. I would like to know what the feelings of the committee is on that.

Rep. Brandenburg: We had a meeting and discussed the emergency clause. At this point we recommend that we not put that on.

Representative Mueller: I am not quite sure why we do not want the emergency clause on it.

I need to have some discussion why we do or do not. Why would we want to delay it.

Rep. Brandenburg. As this legislation goes through the process there is going to be a lot of discussion. I just think it is better to leave the emergency clause off.

Rep. Lemieux: Thank you Mr. Chairman. I on the other hand would prefer the emergency clause on the legislation. This is an issue to bring some discussion. Speaking with some of the regulators yesterday for the state of N.D. having this implemented INSTANTANEOUSLY upon the Governors signature. They have no problem with it.

CHAIRMAN NICHOLAS: I would like to respect the Bills sponsor on this legislation as we have it.

Chairman Nicholas: I will entertain a motion on Bill 1287, with the amendments.

Rep. Pietsch moves and a second by Rep. Koppang. Any further discussion. I

The clerk will take the roll. We have 14 yes and one absent and no no's.

Rep. Pietsch will carry the Bill DO PASS=====14:1360

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1287

Page 1, line 3, after "penalty" insert "; and declaring an emergency"

Page 1, line 10, remove "sanitary"

Page 1, after line 22, insert:

"**Section 2. EMERGENCY.** This act is declared to be an emergency measure."

VR
2/16/01

10509.0101
Title.0200

Prepared by the Legislative Council staff for
Representatives Brandenburg, Mueller, and
Renner

February 15, 2001

HOUSE AMENDMENTS TO HB 1287 HOUSE AGR. 2-16-01

Page 1, line 2, replace "chemicals" with "pesticides"

Page 1, line 7, replace "**Certified as chemical-free**" with "**Certification**"

Page 1, line 10, remove "sanitary"

Page 1, line 12, replace "chemical" with "pesticide"

Page 1, line 15, replace "trace of any chemical" with "pesticide"

Page 1, line 17, replace "trace of any chemical" with "pesticide"

Renumber accordingly

2-16-01

Date:
Roll Call Vote #:

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1287

House AGRICULTURE Committee

☐ Subcommittee on

or

☐ Conference Committee

Legislative Council Amendment Number PIETSCH - KOPPANG AS WITH AMENDMENTS

Action Taken DO PASS

Motion Made By BRANDENBURG Seconded By MUELLER
WITH AMD PIETSCH KOPPANG

Representatives	Yes	No	Representatives	Yes	No
Eugene Nicholas, Chairman	✓		Rod Froelich	✓	
Dennis E. Johnson - Vice Chairman	✓		Doug Lemieux	✓	
Rick Berg	✓		Philip Mueller	✓	
Michael Brandenburg	✓		Kenton Onstad	✓	
Joyce Kingsbury	✓		Sally M. Sandvig	✓	
Myron Koppang			Dennis J. Renner	✓	
Edward H. Lloyd	✓		Dwight Wrangham	✓	
Bill Pietsch	✓				

Total (Yes) 14 No 0

Absent 1

Floor Assignment BILL PIETSCH

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1287: Agriculture Committee (Rep. Nicholas, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 00 NAYS, 1 ABSENT AND NOT VOTING). HB 1287 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "chemicals" with "pesticides"

Page 1, line 7, replace "**Certified as chemical-free**" with "**Certification**"

Page 1, line 10, remove "sanitary"

Page 1, line 12, replace "chemical" with "pesticide"

Page 1, line 15, replace "trace of any chemical" with "pesticide"

Page 1, line 17, replace "trace of any chemical" with "pesticide"

Renumber accordingly

2001 SENATE AGRICULTURE

HB 1287

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1287

Senate Agriculture Committee

❑ Conference Committee

Hearing Date March 9, 2001

Tape Number		Side A	Side B	Meter #
March 9	1	X		0.0 - 43.2
March 22	3	X		52.3 - End
March 29	1	X		30.0 - End
	1		X	0.0 - 14.7
March 30	1	X		4.4 - 12.0
Committee Clerk Signature				

Minutes: **March 9, 2001**

REP. BRANDENBURG; Sponsor, introduced this bill to the committee. This is a very important bill concerning North Dakota and Canadian trade. This bill is requiring that anyone transporting an agricultural product into the state must have a certificate stating that it does not contain any pesticide levels in excess of established maximum residue limits.

SENATOR KLEIN; How is this going to be regulated?

REP. BRANDENBURG; As you come through the border you would have to carry a certificate stating that they are within the residue limits that are required by the U.S.

SENATOR KLEIN; Is there a fiscal impact?

REP. BRANDENBURG; Right now, if you transport grain back and forth between different countries, there are standards that have to be followed. The enforcement is going to depend on how much we enforce this.

SENATOR KLEIN; Will the truck drive be guilty?

REP. BRANDENBURG; We are putting this on the truck driver.

SENATOR KLEIN; Is this going to work?

REP. BRANDENBURG; There a lot of questions concerning this issue whether we are following the lines of NAFTA, this may be a case for the Attorney General.

SENATOR KLEIN; Will this deter people from driving through Minnesota?

REP. BRANDENBURG; In order for this to work in the United States we need North Dakota, Minnesota, Montana and every state along the border to pass this legislative like this or they will just drive around the state.

REP. LEMIEUX; Sponsor, testified in support of this bill. This bill asks us to enforce rules and regulations that we should be enforcing. We are opening the door to lowering our food standards by allowing these imports. All we are asking is that if there is a residue that it must be identified and if they exceed our federal standards, that product we are made aware of it. The financial burden to the state of North Dakota is minimal, because all we are asking for is that you provide a certificate, stating that there is no residue that exceeds the maximum residue limit.

SENATOR WANZEK; Would this be monitored by the border control?

REP. LEMIEUX; We as a state can request the customs people to collect this information. If the Food and Drug Administration of this country was doing their job they would probably have this implemented right now.

SENATOR NICHOLS; sponsor, testified in support of this bill. This is nothing more than what we are asked to do when we are shipping into Canada.

ROGER JOHNSON; Ag. Commissioner, testified in support of this bill. See attached testimony. We need to focus on food safety and health related issues as opposed to trade related issues.

SENATOR ERBELE; Are you saying that we want to make sure that we are saying that this is about food safety, not trade.

ROGER JOHNSON; That is exactly what I am saying. You may want to visit with the Attorney General about that and the interpretation, to see if you can refine the language before you take final action.

MARK SITZ; North Dakota Farm Bureau, testified in support of this bill.

LOUIS KUSTER; farmer, testified in support of this bill.

JIM DIEPOLDER; U.S. Durum Growers, testified in support of this bill. See attached information. U.S. Durum Growers Assoc. support this bill for two reasons, mainly food safety and competitive disadvantage. U.S. Durum Growers do not want to compromise the safety of their food.

CURT TRULSON; NDFPA, testified in support of this bill.

BRIAN KRAMER; North Dakota Farm Bureau, testified in support of this bill. Our major emphasis is on the ability of this bill to push along the harmonization and the joint chemical registration that is between our two countries. This is also a fairness issue.

LINDA RAUSER; Dakota Resource Council, testified in support of this bill.

SENATOR KLEIN; Are there going to issues that you see in this bill, are we sit defensible, as far as the Attorney Generals Office?

PAUL GERMOLUS; When we look at the legal effect of the bill implementing this criminal statute. This statute make it a Class B misdemeanor for a person to transport a product into this state from another country, if they don't possess a certificate stating three things

SENATOR ERBELE; Who then in your opinion would the most heat to the certificate?

PAUL GERMOLUS; Since we don't know where the product is going to be coming from, I guess there is the presumption that these are mostly Canadian products.

LOUIS CUSTER submitted information for the committee from the Web site of the Canadian Grain Commission.

The hearing was closed.

March 22, 2001 - Discussion was held.

SENATOR KLEIN presented amendments to the committee.

March 29, 2001 - Discussion was held.

SENATOR NICHOLS presented amendments to the committee.

Discussion on amendments.

SENATOR NICHOLS moved the amendments.

SENATOR KROEPLIN seconded the motion.

Roll call vote: 4 Yeas, 2 No, 0 Absent and not voting.

SENATOR NICHOLS moved to further amend the bill to make the language consistent.

SENATOR KLEIN seconded the motion.

Roll call vote: 6 Yeas, 0 No, 0 Absent and Not voting.

Discussion was held on the amendments presented to the committee by SENATOR KLEIN (10509.0204) on March 23, 2001.

JEFF OLSON; ND Department of Agriculture, answered questions at the request of the committee.

Discussion was held.

March 29, 2001

Discussion was held.

SENATOR NICHOLS moved a DO PASS on amendments 10509.0205.

SENATOR KROEPLIN seconded the motion.

Roll call vote: 4 Yeas, 2 No, 0 Absent and Not voting.

SENATOR NICHOLS moved a DO PASS of amendments making language consistent.

SENATOR KLEIN seconded the motion.

Roll call vote: 6 Yeas, 0 No, 0 Absent and Not voting.

April 2, 2001

SENATOR NICHOLS moved for a DO PASS of HB 1287.

SENATOR ERBELE seconded the motion.

Roll call vote: 4 Yeas, 0 No, 0 Absent and Not voting.

SENATOR NICHOLS will carry the bill.

10509.0204
Title.

Prepared by the Legislative Council staff for
Senator Klein
March 22, 2001

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1287

Page 1, line 2, remove "; and to provide a"

Page 1, line 3, remove "penalty"

Page 1, line 7, remove "**- Penalty**"

Page 1, line 8, replace "It is a class B misdemeanor for any" with "A" and replace "to" with "may not"

Page 1, line 9, remove "to"

Page 1, line 19, after the period insert "If, upon request, the transporter of the product does not present a certificate as required under subsection 1, a law enforcement officer may impound the agricultural product until the product has been inspected by an inspector employed by the agriculture commissioner. If the product does not contain pesticide levels in excess of established maximum residue limits, as specified in title 40, Code of Federal Regulations, part 180, does not show a presence of a pesticide for which a maximum residue limit has not been established, and does not show the presence of any pesticide not approved for use on that agricultural product in this country, the individual conducting the inspection shall issue the transporter a certificate of compliance upon payment by the person importing the product of the actual cost of the inspection. If the inspection indicates the product contains any pesticide levels in excess of established maximum residue limits, as specified in title 40, Code of Federal Regulations, part 180, shows the presence of a pesticide for which a maximum residue limit has not been established, or shows the presence of a pesticide not approved for use in that agricultural product in this country, the agricultural product may not be further transported in this state except to return the agricultural product to the country of origin upon payment by the person importing the product of the actual cost of the inspection and any costs associated with the impoundment.

3."

Renumber accordingly

10509.0205
Title.

Prepared by the Legislative Council staff for
Senator Nichols
March 27, 2001

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1287

Page 1, line 14, after the semicolon insert "and"

Page 1, line 16, replace "; and" with a period

Page 1, remove lines 17 and 18

Renumber accordingly

Date: 3-29-01
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1287

Senate Agriculture Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number 10509.0205

Action Taken _____

Motion Made By Sen. Nichols Seconded By Sen Kroeplin

Senators	Yes	No	Senators	Yes	No
Senator Wanzek - Chairman		✓	Senator Kroeplin	✓	
Senator Erbele - Vice Chairman	✓		Senator Nichols	✓	
Senator Klein		✓			
Senator Urlacher	✓				

Total (Yes) 4 No 2

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 3-29-01
Roll Call Vote #: 2

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1287

Senate Agriculture Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Sen. Nichols Seconded By Sen. Klein

Senators	Yes	No	Senators	Yes	No
Senator Wanzek - Chairman	✓		Senator Kroeplin	✓	
Senator Erbele - Vice Chairman	✓		Senator Nichols	✓	
Senator Klein	✓				
Senator Urlacher	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Consistant language

Date: 4-2-01
Roll Call Vote #:

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1287

Senate Agriculture Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Sen. Nichols Seconded By Sen. Erbele

Senators	Yes	No	Senators	Yes	No
Senator Wanzek - Chairman	✓		Senator Kroeplin	✓	
Senator Erbele - Vice Chairman	✓		Senator Nichols	✓	
Senator Klein		✓			
Senator Urlacher		✓			

Total (Yes) 4 No 2

Absent 0

Floor Assignment Senator Nichols

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1287, as engrossed: Agriculture Committee (Sen. Wanzek, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1287 was placed on the Sixth order on the calendar.

Page 1, line 14, after the semicolon insert "and"

Page 1, line 15, replace "shows no" with "does not contain any"

Page 1, line 16, replace "; and" with a period

Page 1, remove lines 17 and 18

Renumber accordingly

2001 TESTIMONY

HB 1287

Dakota Resource Council

P.O. Box 1715
Bismarck, ND 58502
Phone - 224-8587 Fax - 224-0198

HB1287 Testimony

The Dakota Resource Council is very much in support of HB1287. I won't drag you through the history of this bill. Some of you will recognize this bill as essentially the same as House Bill 1335 from the 1999 session. That bill passed both houses of the legislature but was vetoed by then Governor Shafer. Governor Hoeven has stated that he would not have vetoed House Bill 1335. It is our understanding that he would not veto similar legislation.

This is a food safety AND a fair trade issue.

When a commodity hits our grocery store shelves, United States consumers should be able to assume that it meets United States Food and Drug Administrations chemical residue standards. But, as it stands right now the majority of the commodities that come across North Dakota's borders is not tested for meeting these standards. This legislation would require the producers and exporters in these other countries to certify that the commodities that they are bringing into the state qualify under the United State's Food and Drug Administration standards. Some might say that Dakota Growers Pasta's new policy would affect or be affected by this bill. Dakota Resource Council does not think so. We would think the stockholders would want to be able to say that

Dakota Resource Council
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the Canadian durum in their product meets United States chemical residue standards and be telling the truth.

Imported commodities are still negatively affecting North Dakota Agricultural prices. This is a fair trade issue. If producers in foreign countries are producing for our market then it is only fair that they should have to meet the same chemical residue standards that our farmers do. As I said before, this bill places the burden of certification on the foreign country. That is right where it belongs.

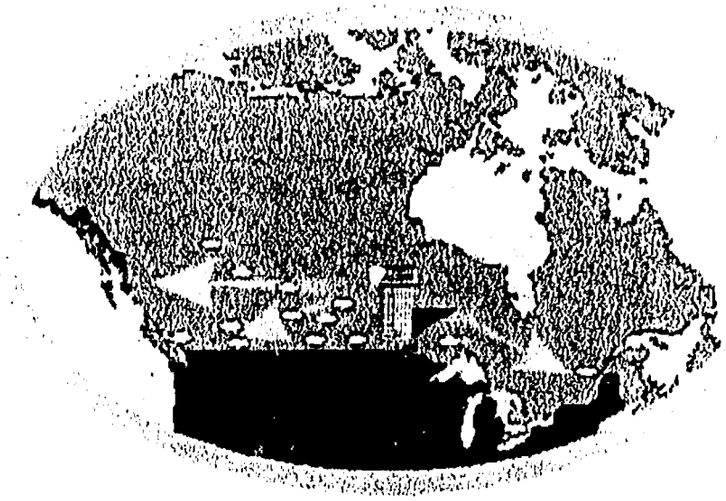
That's about all I have to say, except that the grassroots of the state of North Dakota supported this legislation's predecessor. The grassroots support House Bill 1287. Farmers and informed consumers know what is good for them and they have asked you to do the right thing. Please vote DO PASS on House Bill 1287.

Thank you,

Linda Rauser

Canadian Grain Commission | Commission canadienne des grains

Organization and Operations of the Canadian Grain Commission



Canada

Organization and Operations of the

Canada is known worldwide as a supplier of quality grain.

Why are we so successful? Our edge in the marketplace has always been quality and consistency. A miller who buys Canadian wheat knows how that wheat will perform, year after year. Each lot of grain does not have to be tested, because each lot will perform exactly the same as previous lots of the same wheat.

This kind of quality and consistency does not happen by accident. Much of the responsibility for the quality of Canadian grain belongs with the Canadian Grain Commission.

In Canada, grain is most often wheat, and wheat often is turned into bread—whole wheat bread, crusty bread, white bread, French bread, Italian bread, bannock, sourdough bread, pita bread, chapatis, tortillas, hot cross buns, hamburger buns. But there's more. Canadian grain products include pasta, noodles, mustard, licorice, sprouts from mustard, flax, beans, and chick peas, oils from canola, flax, sunflowers, corn and wheat germ, soups from barley, wheat, lentils and peas, porridge, muffins, cakes, biscuits, cookies, crackers, couscous, hummus, kasha, taboull, and beer. From barley to wheat, if it's grain grown in Canada, the CGC ensures its quality.

The next time you pick up a food product in your grocery store, look for the grain. It'll probably be there, and, if it's Canadian, you'll know it's good, and the Canadian Grain Commission helped to make it that way.

How do we ensure this quality? We test potential new varieties. We set standards for grain delivered to country elevators and to all the other elevators that handle grain, and we monitor its quality, until it is delivered to processing plants and mills or loaded onto ships. We make sure that the grain is free of pesticides, insects, mould, and anything else that might harm consumers or interfere with processing quality.

How we came to be

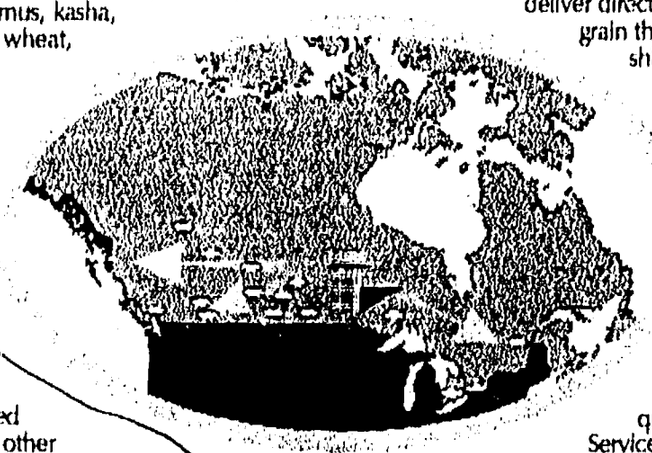
The need for assuring grain quality in western Canada goes back to the 1880s. The railways brought farmers west and took their grain back east. The grain industry grew very quickly to accommodate the ever-increasing volume of grain and to ensure its quality. To respond to a need to regulate this expanding industry, the government proclaimed the Canada Grain Act in 1912. The CGC was born.

In 1912, the CGC was called the Board of Grain Commissioners. Its headquarters were in Fort William, Ontario. The headquarters were moved to Winnipeg in 1930. The Board of Grain Commissioners was renamed the Canadian Grain Commission in 1971. The Canadian Grain Commission is an agency of the Government of Canada. As a federal agency, we are expected to bring in revenue for the services we provide to the grain industry.

Today, the CGC is organized into four areas: Industry Services, Grain Research Laboratory, Executive, and Corporate Services. We have over 700 employees across Canada. Our annual budget is about $55 million, most of which comes from fees for services.

The flow of grain

The CGC offers a number of services to the grain industry as grain makes its way from the producer's field to markets. Most often, producers deliver their grain to a local primary elevator. The CGC establishes the grading guidelines that operators of primary elevators must use. Producers also deliver directly to process elevators or load grain themselves into railcars for direct shipment to terminal elevators.

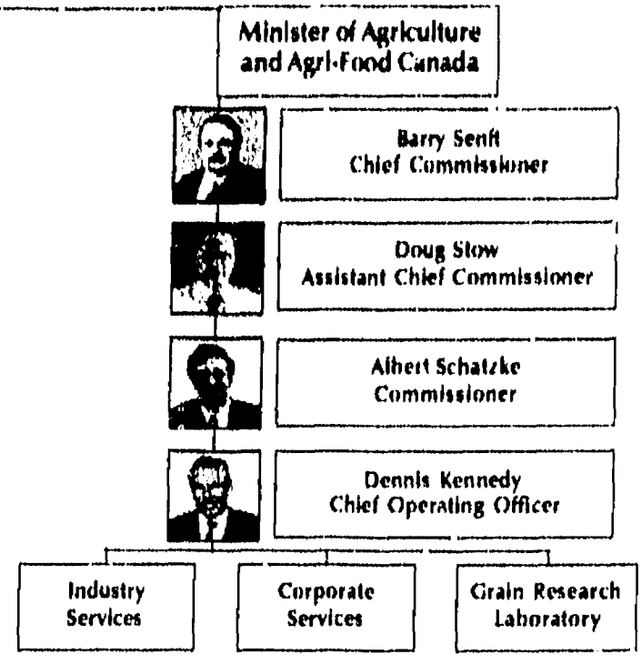


Individual producers' deliveries are generally mixed and grain is shipped in large lots. This bulk handling helps keep costs down. However, because the identity of each producer's grain is lost almost immediately, it is important that grading at the primary elevators is done quickly and fairly. Industry Services provides a dispute resolution service when producers and buyers disagree on grades.

When grain is unloaded at terminal elevators and some transfer elevators, CGC staff grade the grain and register its receipt. They follow similar procedures when grain leaves the elevators. Grain leaving terminal and transfer elevators is bound for domestic or export customers, usually by ship or laker.

Canadian grain is graded by its visual characteristics. These grades are carefully established to describe the processing qualities of the grain. The Certificate Final issued for each export shipment of grain is internationally recognized and accepted as Canada's assurance that what our customers buy is what they are expecting. When buyers purchase grain from other countries, they may wish to see the actual grain they are buying before they close the deal. When they purchase Canadian grain, they need only the Certificate Final.

Canadian Grain Commission



Executive

The Executive sets policy and provides general direction for the work of Corporate Services, Industry Services and the GRL.

Three Commissioners set policy and carry out the broad objectives and provisions of the Act. Assistant commissioners in Canada's major grain-growing areas deal with inquiries from producers and the grain industry and publicize CGC activities in their regions. These positions are appointed by the Governor in Council.

Operations are headed by a Chief Operating Officer who provides overall direction for the activities of Industry Services, the Grain Research Laboratory, and Corporate Services.

Industry Services

Industry Services ensures that Canadian grain meets visual quality standards. At elevators, CGC staff inspect and grade grain and perform other services to ensure the quality of grain is maintained as it moves through the handling system. We also have service centres across the prairies, and regional offices in Vancouver, Winnipeg, Thunder Bay, Chatham and Montreal.

Industry Services staff perform a number of support functions for the Canadian grain industry.

- They ensure the visual quality of grain, by inspecting and grading samples of all grain according to legislated standards. They ensure grain is clean and free of hazardous substances and insects. If required they supervise grain treatment or fumigation. They also administer a protein segregation program.
- Each fall, they collect samples of various grades of all grains and prepare grade standard samples for consideration by the Grain Standards committees.
- They oversee the operation of elevators. They inspect scales and some other equipment and facilities in licensed terminal and transfer elevators.
- They monitor the integrity of the grain handling system by
  - — ensuring accurate weighing of all shipments handled by terminal elevators
  - — investigating overages or shortages of railcar or vessel cargoes
  - — registering and cancelling grain elevator receipts as grain is moved into and out of terminal elevators
  - — audits of all grain stocks in terminal and transfer elevators
- They provide services to producers through service centres spread across the prairies.
- They also allocate railcars to producers so that producers can load their own railcars and ship directly to terminal elevators or domestic markets.

Grain Research Laboratory

The Grain Research Laboratory (GRL) is an internationally acclaimed research centre and the major Canadian centre for research on the quality of grain. Its scientists ensure that the processing quality of grain is maintained from cargo to cargo and from year to year, and they also engage in research to expand our scientific knowledge of what constitutes quality in grain.

The laboratory performs a number of services, including

- Conducting annual harvest surveys on Canadian cereal grains and oilseeds—these surveys are a major source of information for our customers
- Monitoring the quality of grains and oilseeds moving through the handling system and publishing quality data for cargoes shipped from Canadian ports—these reports are published on our Web site as well as in booklets
- Assessing the quality of plant breeders' selections and making recommendations about which selections should be approved as new varieties for growing in Canada
- Conducting research on grain and grain products—it answers such questions as what qualities in canola make the best oil, or what wheat makes the best noodles
- Providing specialized services, such as certifying that grain samples are free from unacceptable levels of undesirable substances such as pesticides.

Corporate Services

Corporate Services is responsible for internal services, such as administration, finance, communications and information technology, and they provide policy advice. Responsibilities include

- Maintaining and publishing statistics on grain handling, storage and movement—the CGC is a major source of statistics for the grain industry in Canada
- Providing library services—the CGC's library maintains books and journals on all aspects of the grain industry, and is a major source of information for the industry and for employees
- Managing the licensing of grain dealers and elevator companies—the licensing unit ensures that licensees have enough money to cover payments to producers who have delivered grain to them.

Grain elevators

The CGC licenses elevators in western Canada and grain dealers who purchase directly from western Canadian farmers. The Canada Grain Act limits our authority to grain dealers and terminal, primary and process elevators from Thunder Bay west. Grain dealers buy and sell western grain for profit, for themselves or others. They are not required to operate handling or storage facilities. We have authority over transfer elevators in eastern Canada.

The CGC oversees delivery only at terminal and transfer elevators and publishes maximum charges for services offered by elevators and for the use of elevator space. We may also arbitrate in disputes over grain quality between buyers and sellers of grain.

Primary elevators are those that receive grain directly from producers. The elevator manager grades the grain as it is delivered.

Terminal elevators are located at Thunder Bay, Vancouver, Prince Rupert and Churchill. Grain is officially inspected by CGC staff as it is received at these elevators. It is stored at these terminals until it is moved for domestic or export use.

Transfer elevators are located along the St. Lawrence Seaway and the St. Lawrence River and at Halifax. They primarily handle western grain destined for export.

Process elevators process grain and oilseeds for human consumption. They include flour mills, oilseed crushing plants, and malt houses.

Grain Appeal Tribunal

A Grain Appeal Tribunal receives appeals from producers and grain companies dissatisfied with grain grades assigned by CGC inspectors. The chair of the Tribunal is a qualified CGC grain inspector, but acts independently of the CGC. Other members of the Tribunal are selected from the grain industry.

Grain Standards committees

Two Grain Standards committees, one in eastern Canada and one in western Canada, meet regularly to make recommendations about changes to grade specifications and to discuss grain quality issues. These committees are composed of producers, grain handlers and marketers, and representatives from Agriculture and Agri-Food Canada and the CGC.

One of the committees' major functions each year is to approve the primary and export standard samples that are to be used as visual guides in the grading and marketing of that year's crop.

Business Group

The Business Group works with other areas of the CGC on domestic business development and carries out international consulting assignments.

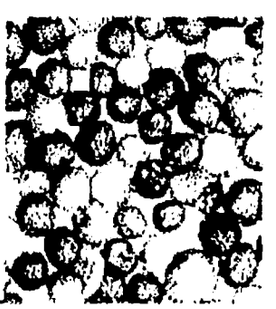
For more information

For more information about the CGC, visit the CGC web site, www.cgc.ca.

In Winnipeg, call 983-2770.

Outside Winnipeg, call 1-800-853-6705.

Fax to (204) 983-2751.



HB ~~1335~~ 1287

Supporting Statements

1. HB ~~1335~~ 1287 is a food safety bill, it requires that imported ag products meet already established residue limits as set under US Federal Law. (Title 40 ; 180 of The Code of Federal Regulations specifies maximum pesticide levels for raw ag commodities.)

2. HB ~~1335~~ 1287 is necessary because Canada and other foreign Countries use drugs and pesticides that are not legal to use in the UNITED STATES and that FDA, by its own admission, does not have the methodology, under its current monitoring program, to test for.

3. HB ~~1335~~ 1287 is the type of sanitary measure that has been preserved for use by the States under the NAFTA agreement.

4. HB ~~1335~~ 1287 is science based, to say that it is not would be to say that EPA and FDA regulations are not science based!!!

5. HB ~~1335~~ 1287 does not hold any foreign country to a higher standard than any other state in the UNITED STATES, because those states are bound by existing Federal Regulations already, whereas foreign countries, including CANADA, use drugs and pesticides on ag products that would be illegal to use in the UNITED STATES but are legal to use in their country.

6. The health and wellbeing of the NORTH DAKOTA citizens, being of the utmost importance, demands that this problem be addressed, and it is unreasonable to expect NORTH DAKOTA to bear the economic burden of the extensive monitoring system that would be required to assure its citizens that their food supply was not being compromised by foreign imports. HB ~~1335~~ 1287 would put that burden on the foreign country where it should be!!!

7. The United States negotiators in the Statement of Administrative Action that accompanied the text of NAFTA, assured the respective state governments that adoption of NAFTA "will in no way diminish or impair the constitutional and legal rights of state and local governments to adopt, maintain, or apply measures to protect public health and the environment." (NAFTA Administrative Statement, ch. 7 sec B(A) (17)).

8. Canada is known to be exporting ag products into North Dakota that contain illegal residues of pesticides. Therefore it is imperative that HB ~~1335~~ 1287 be passed and signed into law as soon as possible!!!!

COMMISSIONER OF AGRICULTURE
ROGER JOHNSON

PHONE (701) 328-2231
(800) 242-7535
FAX (701) 328-4567

DEPARTMENT OF AGRICULTURE
State of North Dakota
600 E. Boulevard Ave. Dept. 602
Bismarck, ND 58505-0020

NORTH DAKOTA DEPARTMENT OF AGRICULTURE
LEGISLATIVE TESTIMONY

Testimony of Roger Johnson
Agriculture Commissioner
House Bill 1287
February 2, 2001
9:30 a.m.
House Agriculture Committee
Peace Garden Room

Chairman Nicholas and members of the committee, my name is Roger Johnson. I am the Agriculture Commissioner of North Dakota. I am here to testify in support of HB 1287.

HB 1287 would require Canadian agricultural products to be certified as free of various chemical residues. I would recommend that the term "sanitary" be removed from the bill as we believe the term refers to animal health certificates and not to crop residue levels. While public health and food safety issues are important, the real issue is the competitive disadvantage that North Dakota producers have been forced to endure due

to the lack of access to the same agricultural chemicals available to our Canadian neighbors.

North Dakota and Canadian farmers should be on a level playing field with respect to the use of crop protection products. It is unfair competition when Canadian farmers use agricultural inputs that are banned or not available in the United States and then export their crops into this country. Our producers are being held to a higher standard when they have restricted access to agricultural chemicals readily available to their Canadian counterparts.

This issue is one that demands harmonization of pesticide registrations and price equality. Progress in this area has been far too slow, but momentum is building within the states to direct our Federal government to recognize and rectify the competitive inequities that the current registration system has created.

Food safety concerns and potential residues on imported agricultural products should be addressed. Agricultural products with residues above allowable maximum residue levels (MRL) or with detectable residues when no MRL has been established should not be allowed. This same issue led to two FDA studies over the last two years. One study looked at residue levels in imported wheat products, and the other looked at residues in imported canola products. The FDA collected 30 samples of whole grain wheat entering the United States from Canada and analyzed them for 17 pesticides. Residues were found in one wheat sample. These residues, from chemicals registered for wheat, were

below the allowable U.S. import tolerance. The results of the canola study are not available at this time.

In the past two years, the U.S. and Canadian governments have improved the process of making new chemistries available in both countries simultaneously. However, there has been less work done between the two countries with respect to the availability of the older chemicals. My office has been working diligently with the Environmental Protection Agency to resolve this issue as well as the price differential issue as both are interrelated.

Chairman Nicholas and Committee members, I urge a do pass on HB 1287. I would be happy to answer any questions you may have.

COMMISSIONER OF AGRICULTURE
ROGER JOHNSON

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DEPARTMENT OF AGRICULTURE
State of North Dakota
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NORTH DAKOTA DEPARTMENT OF AGRICULTURE
LEGISLATIVE TESTIMONY

Testimony of Roger Johnson
Agriculture Commissioner
House Bill 1287
March 9, 2001
9:00 a.m.
Senate Agriculture Committee
Roosevelt Park Room

Chairman Wanzek and members of the committee, my name is Roger Johnson. I am the Agriculture Commissioner of North Dakota. I am here to testify in support of HB 1287.

House Bill 1287 would require foreign agricultural products to be certified as free of pesticide residues in excess of maximum residue limits established by the Environment Protection Agency (EPA) for that product. Public health and food safety issues are important concerns when foreign crops and crop products having residues from pesticides that are not registered for the same use in this country are imported.

North Dakota wants to ensure that food safety remains at the highest standard. When foreign countries use agricultural inputs that are banned or not available in the United States and then export their crops into this country, this standard becomes vulnerable. Our producers are restricted to using agricultural chemicals approved for use on particular crops by the EPA. The EPA approval is based on a review showing that the chemicals used and any resulting residues are safe for the American public. To allow other countries to export to North Dakota their agricultural products which have been treated with chemicals not approved by the EPA or with residues above the maximum limits set for safety for that particular product places the health and safety of North Dakota residents at risk.

Food safety concerns and potential residues on imported agricultural products should be addressed. Agricultural products with residues above allowable maximum residue levels (MRL) or with detectable residues when no MRL has been established should not be allowed. This issue led to a FDA study in the last two years of residues in imported canola products. The FDA collected 38 samples of canola products entering the United States from Canada. The results of the canola study indicated two feed samples with residue levels of chlorpyrifos (Dursban/Lorsban) at 0.03 and 0.07 ppm. Chlorpyrifos does not have an EPA tolerance established in the United States for canola. This is a clear example of why a certificate should be required for imported crops or crop products and the importance that action be taken to prevent the importation of agricultural products with residue limits which have not been approved as safe by the EPA.

I have one concern about this bill. Section 1, subsection 1c, could be interpretted to mean that a certificate would be required to certify that a pesticide not approved for use on the agriculture product in this country, but **with** an established import tolerance, would not be allowed into North Dakota. This may be viewed as a trade irritant, because it could be interpreted as being more trade related than health related.

Harmonization of pesticide registrations is important and can help resolve the questions of health and safety. Progress in the area of harmonization has been too slow, but momentum is building within the states to direct our Federal government to recognize and rectify these issues and to address the competitive inequities that the current registration system has created. However, the need to protect the food supply and the health and safety of our residents cannot wait for harmonization and dual registration. Until a particular pesticide residue has been approved as safe by the FDA, the public should be protected from imported food products that contain such residue.

Chairman Wanzek and Committee members, I urge a do pass on HB 1287. I would be happy to answer any questions you may have.

House Bill 1287
Position Statement
U.S. Durum Growers

Bruce Lewallon - President

Presented by : Jim Diepolder - Director

1. U.S. Durum Growers Support House Bill 1287 for two reasons :

   A. Food Safety

   B. Competitive Disadvantage

2. Food Safety: Consumers expect food processed in this country to meet U.S. Grower standards. No exceptions. Commingling of raw products compromises grower integrity.

3. Competitive Disadvantage: No raw agricultural products produced with chemicals resulting in illegal residue which gives competitors a production advantage until proven safe and released to farmers in U.S. should be allowed into North Dakota.

4. This bill will aid in Chemical Harmonization by promoting dual registration.

CANADIAN PACIFIC RAILWAY

Grain Office
1300 – One Lombard Place
Winnipeg Manitoba
R3B 0X3
Tel (204) 944-7000
Fax (204) 957-5879

March 28, 2001

Senator Terry M. Wanzek
Chairman, Senate Agriculture Committee
Committee
State of North Dakota
State Capitol
Bismarck, North Dakota

Representative Eugene Nicholas
Chairman, House Agriculture
State of North Dakota
State Capitol
Bismarck, North Dakota

R H Foot
Assistant Vice-President
Grain

D E Stirling
Director Grain

B L Dornian
Director Strategy

Dear Senator Wanzek and Representative Nicholas:

Our Railroad, which serves an extensive area in North Dakota, has been tracking the progress of House Bill 1287 as it moves through the North Dakota Legislature. So have many of our shippers who depend on us to deliver grain to or from Canada to meet their continuing needs. Obviously, the requirement that all crops from other countries being shipped to, or through, North Dakota be certified free of pesticides not registered for those crops in the US, will have significant consequences for the movement of grain into and beyond North Dakota.

The provisions included in this bill would severely impact rail operations for grain and grain products that are destined to both North Dakota and beyond. Adding an administrative burden to transportation as proposed will mean North Dakota customers who depend on Canadian grain for just a portion of their needs, may lose this source for raw grains, lose the business to competitors in other states, or relocate facilities elsewhere. For Canadian Pacific, it means we have to look to alternatives such as re-routing around the state to best serve customers.

None of these options are good ones and our Company wants to preserve its strong rail network in North Dakota. Over the past decade, we've proved our worth to North Dakota. The volume of Canadian Pacific's traffic grew tremendously over the decade because we selected Portal as the favored gateway into the U.S. With the volume has come large capital investments for track, sidings, signals and other infrastructure. When new cars for grain movement, new locomotives and all the other improvements are factored in, CPR has made more than one billion dollars in improvements since 1990 on just the Soo Line territory. As we have improved so have our customers, with similar investments in new processing and grain handling facilities.

Everyone recognizes the need to develop consistent standards for the movement of goods both ways across the border. This is an issue involving use of pesticides, yet transportation is being asked to deal with it. I can tell you we are committed to actively working with government, private agencies and shippers in both countries to find ways to resolve this pesticide issue in a manner that has minimal impact on our economies and transportation system. Quite frankly, this law will not resolve the outstanding issue over pesticide use - only add another layer of administrative detail.

We don't believe HB 1287 would work in the best interests of North Dakota and encourage you to oppose its passage.

Yours truly,

Ray Foot
Assistant Vice-President – Grain
(Canada and US)

cc: Mark Bazan, Manager Grain Development and Assets, Minneapolis, MN
Tom Kelsch, Kelsch, Kelsch, Ruff & Kranda, Mandan, ND