

Ladies and Gentlemen of the Committee and Legislature:

My name is Joseph M. Schmitt and I live in rural Jamestown, North Dakota. For the past 43 years, as an attorney and landman, I have worked providing consulting services in the regulatory process as it relates to land use and development.

Please consider my comments regarding the proposed Senate Bill 2134 related to the placement of beehives and apiary locations..

Years ago I spent nearly two years working in the regulatory process to help secure Browning's Honey Company consolidating and expanding their primary operations to the Jamestown, North Dakota area where I am a resident. Now, Browning's Honey Company has grown to become one of the Jamestown and Stutsman County areas largest and consistent employers. As drafted, the proposed SB 2134 may very well destroy that business and cause it to relocate, possibly to South Dakota, where it nearly ended up before. Ironically, the proposed bill was co-sponsored by a Senator that represents the Jamestown and Stutsman County area, a city and area struggling to survive, let alone grow.

Before passing the proposed SB 2134, I recommend that consideration be given to the following facts and issues:

01. One must consider what the reason for the proposed bill is to begin with. What is the reason for this proposed bill? For the past twenty years I have had an apiary location near my home where the servicing vehicles travel through my yard and the bees are located near the farmstead yard. The bees have created no issues in my yard, which farm yard contains anywhere from 3 to 10 horses at any given time, and mowing operations are conducted on open station riding and push mowers around the apiary locations regularly as summer mowing demands. I have two neighbors immediately across the road, and have never had a complaint from them. I also have two areas of rented pastures. The apiary locations near my home and in the remote pastures would all be made illegal by the passage of SB 2134. Any issues that do arise, responsible operators generally respond quickly to my knowledge.
02. One must consider whether or not the proposed action is in violation of North Dakota's right to farm provisions of the State Constitution and Laws, as well as the rules and regulations promulgated thereunder. Without a justifiable reason to adopt SB 2134, passing SB 2134 may and likely would result in the elimination of substantially all of the current 20,000+ legally regulated, permitted, and located apiary site locations in North Dakota. This in turn would undoubtedly raise the question of unconstitutional taking of property and property rights without due process, and the litigation that would certainly follow. The State of North Dakota could be looking at potential liabilities of tens of millions of dollars as a result of unconstitutionally eliminating these locations.
03. One must consider the economic impact to the State of North Dakota from the passage of SB 2134. Today's existing locations generate a reported \$60 to \$100 Million plus to the North Dakota economy from honey production alone. Just looking at Jamestown and Stutsman County alone, Browning's Honey Company employs 50-60 employees, making it one of Jamestown's largest and most consistent employers. My estimation of their payroll alone, when applying a multiplier effect of 3 to 7 on wage dollars results in an impact of \$9 Million to \$21 million dollars in the Jamestown area alone as the money is spent. Have you driven through Jamestown lately? Empty building after empty building, and vacant lot after vacant lot everywhere as businesses close or leave the area. A once busy main street is now reduced to a single street light path

through a dying city. Many of the 50-60 employees work on routes throughout the area in crews of 5 or 6 that stop at the various convenience gas stations and stores in the small communities they travel through every day or so. What value does that business have to the small businesses in the communities in more dire straights than Jamestown? Likely quite substantial.

04. One must consider the relationships between the landowners and the honey producers themselves. The honey producers have worked closely with thousands of landowners to provide pollination for various crops, while locating the apiary sites in the least productive of the land for the landowner and minimizing the length and resulting impact of long haul roads to access the sites. These locations generate an estimated \$3 to \$4 million per year in cash and in kind rent to the landowners where the apiary sites are located. The proposed SB 2134 would force longer access roads through otherwise productive land (likely not permitted by the landowners) and substantially impact the other productive uses of the land as a result of any relocation, if any relocation is possible or consented to. Other existing conservation laws and programs may actually prohibit access through certain land. The proposed SB 2134 effectively eliminates all but 160 acres in the center of any given 640 acre section where roads exist on Section lines all around the section, something quite common in North Dakota.
05. One must consider the enforcement aspect of SB 2134 if it were passed. If any given location is found to not be in compliance, and is not moved, who is going to move it? Where is it going to be moved to? It is doubtful that any existing producer would or could legally move another operator's apiary site due to a variety of reasons, including unwillingness to create inter industry friction and lack of insurance to engage in such activity. Operators would not be willing to move non-compliant apiary sites into their own yards or facilities without knowing the health of the apiary site. Is the State of North Dakota going to invest in the equipment and facilities necessary to engage in enforcement of an otherwise unnecessary law? Do the tax payers of North Dakota want to fund yet another government agency and staff it? Is the Legislature going to increase the Department of Agriculture's budget so that it can implement, monitor, and enforce the requirements of proposed SB 2134 if passed. It is going to have a high cost. Somebody has to pay it!

Hopefully in the legislative process you consider the matters that I have raised above. I do not believe that SB 2134 should be passed.

Sincerely,

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