

SESSION OF 2002

SUPPLEMENTAL NOTE ON SENATE BILL NO. 437

As Amended by House Committee on
Agriculture

Brief*

SB 437 would rename the Plant Pest Act, the Plant Pest and Agriculture Commodity Certification Act. The bill would give authority to the Secretary of Agriculture to regulate plant pests, live plant dealers, plants and plant products, and to conduct commodity certification. The bill would modify some current definitions, but would establish new definitions for "live plant dealer," "live plant," "quarantine pest," "regulated nonquarantine pest," "official control," "regulated area," "bee," "beekeeping equipment," and "bee pest."

The bill would give the Secretary of Agriculture the authority to carry out official control operations to locate, suppress, prevent, or retard the spread of any plant disease. The statute which allows the Secretary to enter and inspect property, except for "private residences," would be modified to grant the same authority except for "private dwellings." The bill further would allow the Secretary to pursue plant pests in "regulated articles." Nurseries would no longer be required to be inspected annually.

The bill also would give the Secretary specific authority to establish regulations defining pest freedom standards for live plants, plants and plant products, or other regulated articles that pose risk of moving plant pests that may cause economic or environmental harm.

New authority is given to the Secretary to provide inspection services for any person who owns or possesses plants or plant products or for certification purposes for regulated articles intended for shipment interstate or internationally. Inspection fees would not exceed

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.accesskansas.org/legislature/>

\$30 per hour, but would be established by regulation. If a certificate is requested an additional fee not to exceed \$50 would be assessed.

The bill would establish the maximum license fee for live plant dealers at \$60 (under current law dealers pay a fee of \$50). No license would be required if annual retail live plant sales are less than \$10,000. All valid certificates of nursery inspection and nursery dealer licenses that are scheduled to expire in 2002 would remain valid until January 31, 2003. Live plant dealers may sell only live plants which are in compliance with all quarantines and regulated nonquarantine pest freedom standards.

Electronic or mail order sales of live plants would be subject to the act. Violations of the act or failure to comply with the act may result in a new civil penalty of not less than \$100 nor more than \$1,000 per offense.

Authority to inspect bees or beekeeping equipment also would be established in the bill under the new act. Statutes relating to apiary inspection would be repealed.

Finally, the bill would amend a section of law dealing with food processing plants under the authority of the Kansas Department of Health and Environment. This provision of the bill would exempt commercial honey operations from the definition of a food processing plant.

Background

This bill was introduced at the request of the Secretary of Agriculture. At the hearing on the bill, the Secretary appeared in support and indicated that this bill was the product of a stakeholder review of the Plant Pest Act, consisting of representatives from the Kansas Nursery and Landscape Association, the Kansas Greenhouse Growers Association, and the Kansas Department of Agriculture. Written testimony in support of the bill was provided by the Kansas Nursery and Landscape Association. Qualified support for the package of bills introduced by the Secretary, including SB 437, was given by a spokesperson for the Kansas Farm Bureau. A representative of the Kansas Grain and Feed Association appeared in opposition to the bill.

The Senate Agriculture Committee amended the bill to set the maximum inspection fees at \$30 per hour, to set the maximum certificate fee at \$50, and the maximum live plant dealer license at \$60. The Committee also added a provision which would exempt those dealers whose annual retail live plant sales are less than \$10,000 from the licensure requirement.

The Senate Committee of the Whole amended the bill to delete a provision which would have required that all live plants offered for sale or distribution be in a viable condition. The Senate Committee of the Whole also amended the bill to clarify that the regulations defining pest freedom standards for live plants that pose a risk from their movement be those that may cause economic or environmental harm.

The House Committee on Agriculture amended the bill to allow any person who owns or possesses plants or plant products to receive services from the agency for certification purposes. In addition, the Committee amended the bill to exempt commercial honey operations from the term food processing plant under the Kansas Department of Health and Environment.

The fiscal note on the original bill states that the Department of Agriculture estimated that an additional \$84,400 in fee revenues would be generated by the bill. This increase would have brought FY 2003 Entomology Fee Fund receipts to \$188,750. Any fiscal effect resulting from enactment of SB 437 is not accounted for in *The FY 2003 Governor's Budget Report*.