

1999 HOUSE AGRICULTURE
HB 1334


1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1334

House Agriculture Committee

Conference Committee

Hearing Date 1-28-99

Tape Number	Side A	Side B	Meter #
TWO HB 1334	x		14 to 26
Committee Clerk Signature 			

Minutes:

Summary of bill: Relates to the certification of agricultural products as free of noxious weeds when being transported through or into the State.

Beth Baumstark: Atty General office. (Testimony attached) Explained some of the things we can and cannot do relative to NAFTA or CFTA.

Curt Stern: Field Manager Northern SUN/ADM (Testimony attached). Canola industry working in Canada and US to harmonize the chemicals that can be used on canola. They adopted a joint mission statement in effect made Canola a North American Industry.

We need to raise more canola in North America to fill the demand. They need 100 % more canola then what they are getting to keep the doors open. If you pass this bill we would be out of

business. At the present time we are hauling oil to Whapeton to keep it open. Pass this bill and we'd have to close them all.

Chairman Nicholas: All the canola raised in our area goes to Altona, Mb for processing. I sold my whole canola crop in Canada this year.

Rep Brusegaard: This issue a little above and beyond our capability.

Rep Brandenburg: You say you have been working on harmonization for some time, how long?

Curt Stern: Quite some time. It doesn't happen very fast as we would like but getting better.

Rep Brandenburg: I applaud you for your work but EPA not helping and nothing seems to get done.

Curt Stern. Certainly isn't happening as fast as we would like.

Merlyn Liteholz: ND Weed Control Assoc. Don't know if we are really opposed to this bill the only problem we have is who is going to enforce it. The County weed boards don't have time to sit on the border and watch every border crossing. I'm glad you took the word "State" out of it.

Dave Nelson Department of Agriculture.. (Testimony attached). Not taking a position on imposing restriction's on Provinces or States.

Rep Brandenburg: When grain goes between our state and province what's the difference

Tom Borgan: Pres Northern Canola Growers. We understand that there are difference's of opinion about free trade and fair trade. US Canola growers fall far short of providing Industry needs . We need Canadian Canola to operate our industry.

Rep Koppang: What % of our Canola market goes to Canada.

Tom Borgan: US growers can only supply about 30 % of the domestic market. The Velva plant uses Canadian Canola for at least 50% of their operating needs.

Beth Baumstark: Assist to the Atty General office. Here to explain the concerns raised with the bill under NAFTA agreement. To be able to defend this law, if passed, we would need to be able to show that the certification that an agricultural product from another country is free from noxious weeds is necessary for the protection of human, plant, or animal life or health and that a scientific basis exists to support the need. (Testimony attached)

Rep Berg: What are the requirements for us bringing seed into Canada and what are the requirements for bringing seed in from Canada? If in fact there is a requirement could we not then pass a law or restrictions similar to there's?

Beth Baumstark: I'm not familiar with restrictions put on US seed going north.

Curt Stern: Field Manager for ADM processing in Velva and Enderlin, ND. They are attempting to make canola a North American product.

Chm Nicholas: what impact does this bill have on your plants?

Curt Stern: It would close them. I want to empathize that the canola industry has grown in the US. From 20,000 acres in 1991 to 800,000 acres in this past year. Our facility in Velva needs twice as many acres of canola as are grown currently in ND..

Chm Nicholas: What you are saying is that we need 50 % more canola grown in ND?

Curt Stern: We need 100% more canola grown in ND to keep up with the demand.

Rep Berg: Is there any barrier on US canola going north?

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Curt Stern: No I am not aware of any. I do know that much of the canola grown in NE North Dakota will go north to Altona, MB. Altona plant is 35 miles north of Langdon. We are taking canola oil from the Velva plant to Enderlin to keep that plant going.

Motion by Rep Pollert for a DO NOT PASS Second by Rep Rennerfeldt

Vote Total: YES 13 NO 2 ABSENT 0 MOTION CARRIED

CARRIER: REP BRUSEGAARD

90529.0101
Title.

Prepared by the Legislative Council staff for
Representative Nichols
January 27, 1999

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1334

Page 1, line 8, remove "state or"

Page 1, line 9, remove "state or"

Page 1, line 10, remove "state or"

Renumber accordingly

Date: 2-4-99
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1334

House AGRICULTURE Committee

- Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do not pass

Motion Made By Pollert Seconded By Rennerfeldt

Representatives	Yes	No	Representatives	Yes	No
Eugene Nicholas, Chaiman	✓		Bob Stefonowicz		✓
Dennis E. Johnson, Vice Chm	✓				
Thomas T. Brusegaard	✓				
Earl Rennerfeldt	✓				
Chet Pollert	✓				
Dennis J. Renner	✓				
Michael D. Brandenburg	✓				
Gil Herbel	✓				
Rick Berg	✓				
Myron Koppang	✓				
John M. Warner		✓			
Rod Froelich	✓				
Robert E. Nowatzki	✓				
Phillip Mueller	✓				

Total (Yes) 13 No 2

Absent _____

Floor Assignment Brusegaard

1999 TESTIMONY
HB 1334

HOUSE COMMITTEE ON AGRICULTURE
HOUSE BILL NO. 1334
TESTIMONY OF BETH BAUMSTARK

My name is Beth Baumstark and I am an assistant attorney general appearing on behalf of the Attorney General. I am not here to either support or oppose House Bill 1334, but to explain the concerns raised with the bill under NAFTA.

With the amendments proposed at the hearing on House Bill 1334, this bill would make it a class B misdemeanor for anyone to transport into North Dakota an agricultural product from another country unless that product had been certified by the country of origin to be free of noxious weeds. I am not aware on any law which criminalizes the transportation in state of products which are not certified to be free of noxious weeds.

NAFTA does not prohibit a state's ability to impose sanitary and phytosanitary measures on products from other countries. What is required, however, is that there be a scientific basis for the sanitary or phytosanitary measure. Also, the other NAFTA countries must be informed that the state is considering adopting the measure and be given a meaningful opportunity to comment on the measure before it becomes effective.

If the same noxious weeds are found in North Dakota and in the importing countries, it may be difficult to establish a scientific basis for requiring a certificate stating the agricultural product imported is free from the noxious weeds yet allow North Dakota agricultural products containing noxious weeds to be transported within the state.

To be able to defend this law, if passed, against a challenge under NAFTA, we would need to be able to show that the certification that an agricultural product from another country is free from noxious weeds is necessary for the protection of human, plant, or animal life or health and that a scientific basis exists to support the need.

TO: HOUSE AGRICULTURAL COMMITTEE CHAIRMAN NICHOLAS
HOUSE COMMITTEE REPRESENTATIVES

FROM: CURT STERN, FIELD MANAGER NORTHERN SUN/ADM
NORTHERN CANOLA GROWERS BOARD MEMBER
U. S. CANOLA ASSOCIATION BOARD MEMBER

DATE; FEBRUARY 3, 1999

ITEMS: REFERENCE TO HOUSE BILLS; 1334 & 1335

Chairman Nicholas and House Committee Representatives, my name is Curt Stern, I live at Carrington, ND and am the field manager for ADM Processing; Enderlin and Velva, ND. I also am a board member on the Northern Canola Growers Association and the U.S. Canola Association, Washington, D.C.

I would like to give comment on House bills 1334 & 1335 and their potential impact in regards to the North Dakota and U.S. canola industry and also to our processing facility at Velva, ND. I would also like to comment on some statements that were given in testimony to these bills on Friday, January 29, 1999.

1. In regards to the testimony last week towards harmonization, I believe no other part of the Ag industry is working harder for chemical harmonization than canola. For example, this past December, the U.S Canola Association of which the Northern Canola Growers Association is a member, met with the Canola Council of Canada in Winnipeg. From that meeting a joint mission statement was adopted that in effect made Canola a North American industry in regards to chemical harmonization and other aspects. Since that time, members of the Canadian Canola Council and the U.S Canola Assn. have traveled to many of the chemical registrants with a joint statement. That statement being that neither country will endorse any new canola crop product unless it is labeled in "both" countries. We are also cautiously optimistic that U.S. canola growers will also have additional crop protectant tools for the 1999 crop year that too date have only been available in Canada. One that I can mention is the Liberty Link transgenic canola and I feel there will be others shortly. A number of us will be meeting with EPA in Washington later this month.

2. In regards to the statement last week in regards to Lindane on canola; while it is true that there are acres of canola being planted with lindane in Canada, lindane is widely used in the U.S. on cereal crops and feed grains. I also feel it should be noted that the Canadian canola industry has agreed to drop the use of lindane on canola planting seed in the near future.

3. In regards to the question last week on why Velva doesn't also process sunflower? Some background information in regards to that. Most of the oilseed processing plants in North Dakota were built in the early 80's when sunflower acreage was about 4 million acres and anticipation was that acres would grow even more, but due to farm bill legislation and other circumstances, sunflower acres actually fell to less than 1 million acres in North Dakota and in the case of the Velva facility, its doors actually closed for many years. Our company opened the Velva facility in the late 80's but was not able to efficiently operate the facility due to the lack of local oilseed product and ended up closing the plant until the early 90's following the NAFTA agreement. Canola acres in North Dakota in 1991 were less than 20,000 and it was only possible to keep processing because of imported canola, which still is the case today. All of the processing plants in the state were designed for large volumes (acres) including the Velva facility. Velva alone can handle at least twice as many acres as there are in the state already and that would be if we were the only plant buying canola, which is not the case anymore.

However, we are the only facility dedicated to canola exclusively, because canola is the only oilseed crop of any size in the Velva area. Most other oilseed crops, such as sunflower and soybean are grown south and east of the Velva region. Canola and other oilseed crops in the state should be planted only once in every four years on a parcel of land because of crop diseases associated with oilseed crops, thus acreage is limited. It was reported last week during testimony that there is 21,000,000 acres of tillable cropland in the state and with a 1 in 4 planting policy on oilseeds, 5,000,000 of oilseed crops should be the limit. This past growing season, ND producers planted 4,800,000 acres of oil crops in the state, which included 1,900,000 acres of sunflower, 1,600,000 acres of soybeans and 800,000 acres of canola, plus many other acres of crops susceptible to oil crop rotations (pinto beans, navy beans, etc.) Once again most of these acres would not migrate to a processing plant in the Northwest area of the state due to freight ramifications.

In summary, our company, the various canola organizations and myself have been and will continue to work for producers in the state in securing products that can reduce our dependence on imported canola and I think we are making good strides toward that goal. We are also sensitive to the issues of displacing production from U.S. growers, but in the case of **Canola, we are not displacing U.S. canola production, but rather supplementing current production to keep an industry growing!** In fact, of the 1.4 billion pounds of canola oil to be consumed this year in the U.S., according to U.S.D.A., 80-85% will be imported, even though U.S. acreage has grown from less than 100,000 acres in the early 90's to 1.2 million acres this past year. Thus any disruption in supplying this growing industry could negatively impact the canola industry.

It has been exciting to see canola acres grow from less than 20,000 only a few short years ago to 800,000 acres in 1998 in North Dakota. I personally feel that we have seen this type of growth for many reasons, but I think the main 4 are:

1. Farming flexibility.
2. Strong prices for oilseeds relative to other crops.
3. Increase in crop protection products and crop insurance availability.
4. Producers having a local final market in their own back yard, rather than looking for outside markets.

I am also proud of the impact that our plant has had on the local Velva and Minot economy due to our employee base along with the producer impact.

I thank you for your time and would be happy to answer any questions.

COMMISSIONER OF AGRICULTURE
ROGER JOHNSON



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

House Bill 1334
29 January, 1999
10:00 AM
Peace Garden Room
David R. Nelson

Testimony before the House Agriculture Committee

Chairman Nicholas and members of the House Agriculture Committee, I am David Nelson, State Entomologist with the Department of Agriculture. I am here to testify on House Bill 1334.

There are significant concerns about excessive amounts of Canadian grain entering North Dakota and also some concern about difficulties in shipping grain into Canada. Most of these concerns, however, are not phytosanitary in nature. Phytosanitary concerns are those dealing with quarantine type plant pests and diseases. Imposing restrictive measures on Canadian imports and those of other states poses some potential problems.

Neighboring Canadian provinces have the same weed problems that we have in North Dakota. Grains move freely within North Dakota with no requirements that it be certified free of noxious weeds. There is no reason to believe that North Dakota shipments are any less likely to contain noxious weed seed than Canadian shipments or shipments from neighboring states.

Implementing certification requirements would likely result in discrimination charges or in similar requirements being implemented by Canada or neighboring states.

Canada has had phytosanitary restrictions on U.S. grain since 1996 due of the detection of Karnal bunt in Arizona. Karnal bunt is a quarantine disease of wheat that is regulated by many countries. Because of our Karnal bunt survey over the past four years showing freedom from the disease, Canada has begun to accept our proposal to adopt less restrictive measures regarding the movement of North Dakota grain into Canada. Beginning on January 1, 1999 North Dakota wheat and barley can transit Canada by rail and re-enter the United States to reach east and west coast markets without the requirement of sampling each railcar and testing wheat shipments for Karnal bunt.

Beginning April 1st, Canada will recognize North Dakota as Karnal bunt free. This is significant because it could lead to other less restrictive measures for wheat and barley grain, seed, and screenings.

HB1334, by imposition of restrictive measures on Canadian grain and grain from other states, could slow or reverse the progress towards less restrictive phytosanitary requirements.

Agricultural products as listed in HB1334 is a broad term that would include some perhaps unforeseen items such as bedding plants, nursery stock, feed products, potatoes and sugarbeets. An Ada, Minnesota farmer who delivers sugarbeets to Hillsboro would be required to be certified free of noxious weeds.

Finally, the practicality of monitoring agricultural shipments from Canada and our neighboring states poses enormous logistical difficulties. There are 18 ports of entry on our international border, 21 on the Red River, 23 from South Dakota and ten from Montana. U.S. customs is unlikely to provide assistance in monitoring Canadian shipments and the number of personnel that would be required to monitor all ports of entry.

I would be happy to respond to any questions. Thank you.