

1999 HOUSE AGRICULTURE

HB 1439

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1439

House Agriculture Committee

Conference Committee

Hearing Date 2-04-99

Tape Number	Side A	Side B	Meter #
ONE HB 1439	x		30 to 39
Committee Clerk Signature <i>Arlin Hansen</i>			

Minutes:

Summary of bill: Relates to proof of financial responsibility for commercial pesticide applicators.

Rep Kempenich: Sponsor of bill. As bill was drafted and passed last session and the way the forest service is reading the law is a grazing association is not exempt from this law. Need to clarify it with this bill.

Merlyn Leithold: ND Weed Assoc Testimony attached: This law has eliminated the part time sprayer. A part time sprayer grosses \$1000 to \$3000 annually. Under the present law, if he doesn't have a net worth of \$100,000. or takes out insurance for around \$1500 he cannot spray. You can see what happens, he does not spray. This affects counties because these are the type of sprayers hired to help control noxious weeds on grassland and hayland. We ask you to pass HB 1439, with the amendment in place. This bill, with its amendment , does not remove a sprayer or

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House Agriculture Committee

Bill/Resolution Number Hb 1439

Hearing Date *Click here to type Hearing Date*

a weed board from being liable for their actions. It simply removes some sprayers from being required to carry insurance, insurance that they cannot afford.

Mike Land: ND State Land Assoc. In support of bill. 14,300 acres leased around the state. School trust lands hurt by present law and needs a change.

Motion by Rep Koppang for a DO PASS on HB 1439 second by Rep Renner.

Vote totals: Yes 15 No 0 Absent 0

Carrier: Rep Herbel

PROPOSED AMMENDMENT TO HOUSE BILL NO. 1439

Page 2, after line 11 insert:

- c. Persons who are required to be certified in the Right of way category.
- d. Applicators who hold a commercial pesticide certificate and are controlling noxious weeds on grassland, land producing tame hay, or other lands not devoted to the production of an annual crop.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Renumber accordingly

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

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1439

House AGRICULTURE Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken No pass as amended

Motion Made By Koppang Seconded By Renner

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) 15 No 0

Absent _____

Floor Assignment Herbel

REPORT OF STANDING COMMITTEE

HB 1439: Agriculture Committee (Rep. Nicholas, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1439 was placed on the Sixth order on the calendar.

Page 1, line 2, after "applicators" insert "; and to declare an emergency"

Page 2, after line 11, insert:

- "c. A person required to be certified in the right-of-way category.
- d. An applicator who holds a commercial pesticide certificate and is controlling noxious weeds on grassland, land producing tame hay, or other lands not devoted to the production of an annual crop.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

1999 SENATE AGRICULTURE

HB 1439

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1439

Senate Agriculture Committee

Conference Committee

Hearing Date 3/5/99

Tape Number	Side A	Side B	Meter #
1		X	3250-END
2	X		0-325
3			
3/11 2		X	5525-END
3/11 3	X		0-675
Committee Clerk Signature <i>Tricia Jorgensen</i>			

Minutes:

Senator Wanzek called the meeting to order, roll call was taken, all were present.

Senator Wanzek opened the hearing on HB 1439.

Representative Kempenich introduced the bill. Felt it was self explanatory.

Merlin Leithold from the ND Weed Control Association spoke in support of the bill. Testimony enclosed.

Senator Kroeplin: We're not talking about drift insurance.

Merlin Leithold: Correct.

Senator Kroeplin: So we are just insuring pickups?

Merlin Leithold: No.

Senator Urlacher: As I understand there are some companies that aren't covering.

Senator Sand: The liability on vehicle didn't obligate the insurance company to pay anything for spray damage. You're telling me now that nobody can spray because the insurance company says they aren't liable for the spray and they shouldn't be cause the only thing you are buying is insurance on the vehicle.

Merlin Leithold: Yes, my insurance agent told me the same thing.

Senator Kroeplin: When a sprayer is loaded in the back of a pickup the sprayer is not insured?

Merlin Leithold: That's right.

Senator Kroeplin: What's not insured?

Merlin Leithold: If he has a drift.

Senator Urlacher: Well if they have a \$100,000 asset they don't need any insurance.

Merlin Leithold: Right.

Wayne Carter from the NDWCA spoke in support of the bill. Testimony enclosed.

Mike Brand from the State Land Department spoke in support of the bill. Paragraph D of the bill addresses the problem other people are having.

Senator Klein: We aren't creating an unfair advantage for somebody are we?

Mike Brand: I don't believe so.

Mike Rosemore a licensed sprayer spoke in support of the bill. Feels these requirements would shut down small sprayers.

Senator Urlacher: I think this bill is pertaining to drift not just the application.

Mike Rosemore: If requirements are followed there isn't a drift problem.

Roger Rostvet from the ND Game and Fish Department stood in support of the bill. Wanted to go on record.

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Senate Agriculture Committee
Bill/Resolution Number Hb 1439
Hearing Date 3/5/99

Discussion was held.

Senator Wanzek closed the hearing.

Senator Sand made the motion for a Do Pass.

Discussion was held.

Senator Sand withdrew the motion.

Discussion was held.

FEBRUARY 11, 1999

Discussion was held.

Senator Urlacher made the motion for a Do Pass.

Senator Mathern seconded.

Discussion was held.

ROLL CALL: 6 Yes, 1 No

CARRIER: Senator Urlacher

Date: 3/11
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1139

Senate Agriculture Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Urlacher Seconded By Mathern

Senators	Yes	No	Senators	Yes	No
Senator Wanzek	✓				
Senator Klein	✓				
Senator Sand	✓				
Senator Urlacher	✓				
Senator Kinnoin	✓				
Senator Kroeplin		✓			
Senator Mathern	✓				

Total (Yes) 6 No 1

Absent _____

Floor Assignment Senator Urlacher

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

REPORT OF STANDING COMMITTEE (410)
March 11, 1999 5:27 p.m.

Module No: SR-44-4625
Carrier: Urlacher
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1439, as engrossed: **Agriculture Committee (Sen. Wanzek, Chairman)** recommends **DO PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1439 was placed on the Fourteenth order on the calendar.

**1999 TESTIMONY
HB 1439**

NORTH DAKOTA WEED CONTROL ASSOCIATION
MERLIN LEITHOLD
LOBBYIST # 382
TESTIMONY HB 1439

Good Morning! Chairman Nicholas, members of the House Ag committee. My name is Merlin Leithold. I am here this morning representing the ND Weed Control Association.

The financial responsibility law that has been in place, has some very serious problems for us, in noxious weeds. Noxious weeds have been the winners, while those of us trying to control them, have been the losers.

This law has eliminated that small part time sprayer. A part time sprayer grosses \$1000. to \$3000. annually. Under the present law, if he doesn't have a net worth of \$100,000. or takes out insurance for around \$1500., he cannot spray. You can see what happens. He doesn't spray. This affects counties because these are the type of sprayers hired to help control noxious weeds on grassland and hayland.

Some counties use these part-timers to help in their right of way spraying. Last year, some right of ways were not sprayed due to lack of insured part time sprayers. In Grant County, where I am the weed officer, we insure our sprayers through the county insurance. But because of the new law, I didn't receive the certificates from the insurance company until the end of June. As many of you know, at that time, we have lost the better part of our season.

This bill, as amended, would also allow the rancher, who holds a commercial certificate, and leases federal grazing lands, be exempt.

We ask that you pass HB 1439, with the amendment in place. This bill, with its amendment, does not remove a sprayer or a weed board from being liable for their actions. It simply removes some sprayers from being required to carry insurance, insurance that they cannot afford.

Thank you

BOARD OFFICERS

KENNETH MILLER, Chairman
Fort Rice, ND
663-9350

HENRY GUSTIN, Vice Chairman
Mandan, ND
663-8117

PAUL E. TRAUGER, Secretary
Mandan, ND
667-3300

COUNTY OF

MORTON

STATE OF NORTH DAKOTA WEED CONTROL BOARD

Wayne Carter
Weed Control Officer
667-3389

COMMISSIONERS

WILLIAM BETHKE
Almont, ND

DON PULKRABEK
Mandan, ND

ALLEN OPP
New Salem, ND

JAMES WANNER
Hebron, ND

REUBEN KOVAR
Flasher, ND

March, 4 1999

MR. CHAIRMAN I AM
IN MORTON COUNTY, THE OLDER AND ABSENTEE OWNERS OF PASTURE
LAND AND OTHER LANDS, ARE NOT LICENSED TO SPRAY OR PURCHASE
RESTRICTED CHEMICALS LIKE TORDON 22K THAT DOES A VERY GOOD
JOB ON LEAFY SPURGE AND OTHER NOXIOUS WEEDS.

THEY FIND IT DIFFICULT IF NOT IMPOSSIBLE TO FIND A COM-
MERCIAL SPRAYER TO SPRAY THEIR ACREAGE, LARGE OR SMALL, BECAUSE
OF THE \$100,000.00 REQUIREMENT FOR SPRAYING. THE SMALL WEEKEND
OR EVENING SPRAYER THAT USED TO DO THIS CANNOT AFFORD THE \$1200.00
TO \$1500.00 PREMIUM.

WITH THE NEWER SPRAY NOZZLES ON THE MARKET, SPRAY DRIFT
IS NOT A PROBLEM, IF ALL THE STATE LAWS AND LABEL REQUIREMENTS
ARE FOLLOWED.

I AM IN FAVOR OF HOUSE BILL 1439 as presented

ANY QUESTIONS

NORTH DAKOTA WEED CONTROL ASSOCIATION
MERLIN LEITHOLD
LOBBYIST # 382
TESTIMONY FOR HB 1439

Good Morning! Chairman Wanzek, members of the Senate Ag. Committee. I am here this morning representing the North Dakota Weed Control Association. We represent nearly every county and city weed board in the state.

In 1997, SB 2315 was passed by the legislature, putting into law on January 1, 1998, a financial responsibility requirement for commercial sprayers. This required sprayers to either have net assets of \$100,000 or be required to carry a liability insurance of equal value.

What this did, was not only create a nightmare for those trying to enforce the law, but eliminated alot of sprayers. In our business, of trying to control noxious weeds, we were affected the greatest. Most counties rely on small part-time sprayers to help combat noxious weeds. That small sprayer grosses, on the average, \$1000 annually. The law would require him to buy insurance for \$1500 annually. As you can see, his only alternative is not to spray.

In some counties, this also effects their right of way spraying. Weed boards are insured through the county insurance. But when they hire sprayers, many times they are not employees, but contract sprayers. Some counties cannot afford their own equipment, so they rely on these small sprayers.

In some instances, farmers do some spraying in the summer.

for a little extra income. This law has eliminated this.
HB 1439, as engrossed, would get that small sprayer back in
business. It would help the entire state in our fight against
noxious weeds. This bill does not exempt cropland sprayers.
We all know that in cropland, huge problems can occur.
This bill does not remove a weed board or a sprayer from
being liable for their actions. It simply removes some
sprayers from being required to carry insurance, insurance
they cannot afford.
We feel insurance should be required. But it should also be
affordable to everyone at the level in which they spray.

Thank-you

**Slope County Weed Control Board
Box KK
Amidon, ND. 58620**

**Dale Klug: Chairman
Gene Davis: Vice Chairman
Joan Lorge: Control Officer**

Resolution

Be It Resolved

Whereas House Bill 1439

Is a crop application bill, exempting Only Grazing Associations and Ranchers who are required to have a commercial applicators license as a condition of a federal grasslands lease.

Whereas:

There are ranchers who have noxious weeds on their rangeland and hay land, but no federal grasslands lease, they should therefore also be exempt from this bill.

Therefore:

Support exempting all rangeland commercial applicators from the need to show proof of financial responsibility.

Whereas:

Right-of-ways are grass areas and noxious weeds grow in them. We support excluding right-of-ways from any form of drift insurance requirements. Since county weed boards are ultimately responsible for the treating of noxious weeds on right-of-ways in the counties.

Unanimously passed by the Slope County Commissioners and Weed Control Board this 2nd day of February 1999.

Board members approving

**Ralph Urlacher; Chairman Slope County Commission, Weed Board Member
Gene Bergquist; Slope County Commissioner
Al Schaeffer; Slope County Commissioner
Dale Klug; Chairman Slope County Weed Control Board
Gene Davis; Vice Chairman Slope County Weed Control Board
Tim Oberfoell; Slope County Weed Control Board
Hope Mastel; Slope County Weed Control Board
Joan Lorge; Slope County Weed Control Officer**