



LEE NERISON

96TH ASSEMBLY DISTRICT

Remarks of Representative Lee Nerison
on Assembly Bill 646/Senate Bill 514
Senate and Assembly Committees on Agriculture
January 13, 2016

Capitol:

Post Office Box 8953

Madison, WI 53708-8953

(608) 266-3534

Toll-Free: (888) 534-0096

Fax: (608) 282-3696

Rep.Nerison@legis.wi.gov

District:

(608) 634-4562

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and Vernon Counties

Committee Members:

I testify in support of Assembly Bill 646, which I have authored, and its companion bill, Senate Bill 514, authored by Senator Moulton.

The Department of Agriculture, Trade, and Consumer Protection (DATCP) administers laws regulating commercial animal feed. Currently, violators of commercial animal feed laws are subject to criminal penalties including a fine of up to \$200, up to six months in prison, or both.

Our commercial animal feed laws were last updated in 1979. Today, district attorneys want a civil forfeiture option for minor, unintentional violations. This legislation gives district attorneys that option while recognizing that criminal charges can still be brought if there is strong evidence of intent to violate or defraud, or serious harm has been caused.

I encourage you to support this legislation which updates our statutes to bring penalties in line with other programs administered by DATCP, such as the regulation of fertilizer and pesticides.

Thank you for your time and consideration.



TERRY MOULTON



WISCONSIN STATE SENATOR

23RD SENATE DISTRICT

From: Senator Terry Moulton

To: Joint Committee on Agriculture

Re: Testimony on Senate Bill 514 and Assembly Bill 646
Relating to: penalties for violating commercial feed requirements and providing a criminal penalty.

Date: January 13, 2016

Mr. Vice Chairman and committee members, thank you for the opportunity to speak to you today about Senate Bill 514 and Assembly Bill 646, which revise penalties for violating commercial feed requirements.

The Department of Agriculture, Trade and Consumer Protection (DATCP) administers laws regulating commercial animal feed. DATCP licenses feed manufacturers and distributors, reviews feed labels, inspects commercial feed mills, and investigates feed complaints and potential violations of commercial feed law.

Under current law, a person violating these laws is subject to criminal penalties requiring a fine of up to \$200 or imprisonment of no more than six months, or both, regardless of the size or intent of the violation. There is no civil forfeiture penalty option.

Currently even first-time or accidental violations are subject to these criminal penalties. These bills will allow DATCP the flexibility to bring a civil forfeiture of between \$100 and \$500 for the first violation and between \$200 and \$1,000 for any additional violation within five years of the first violation. It is important to note that this bill does not change the current law that allows for a criminal penalty if there is strong evidence of intent to violate or defraud or serious harm has been caused.

Senate Bill 514 and Assembly Bill 646 will help ensure that laws governing commercial feed violations can be applied appropriately in different circumstances. By increasing the Department's options to penalize commercial feed violations, these bills will improve enforcement and make it fairer. I ask you to please vote to recommend the passage of Senate Bill 514 and Assembly Bill 646. Thank you again for allowing me to testify today.

Serving the 23rd Senate District



State of Wisconsin
Governor Scott Walker

Department of Agriculture, Trade and Consumer Protection

Ben Brancel, Secretary

**Assembly Committee on Agriculture and Senate Committee on Agriculture, Small Business and Tourism
2016 AB 646 and SB 514**

John Petty, Administrator

Division of Trade and Consumer Protection

January 13, 2016

I am testifying in support of AB 646 and SB 514 -- relating to: penalties for violating commercial feed requirements and providing a criminal penalty.

I would like to thank Chairman Nerison and Chairman Moulton for introducing this legislation and holding this hearing today.

Current Situation

- DATCP administers laws regulating commercial feed; the penalties were last updated in 1979.
- Violators of commercial feed laws are subject to criminal penalties consisting of a fine of up to \$200 or imprisonment of no more than six months, or both, regardless of the size or intent of the violation.
- No civil forfeiture penalty option is available for feed law violations.
- District Attorney's do not support criminal penalties for minor, unintentional violations.

AB 646 and SB 514 creates a civil forfeiture penalty option and brings feed penalties in line with other programs administered by DATCP.

- This bill updates the penalties for violation of commercial feed laws to include a civil forfeiture penalty option, while maintaining the current criminal penalties for intentional and serious violations.
- This bill makes the fine and forfeiture amounts and term of imprisonment of commercial feed penalties consistent with other programs administered by DATCP (See, e.g., 94.64 (12)(a), Wis. Stat and 94.71(1), Wis. Stats., concerning regulation of fertilizer and pesticides.).
- Under current law, violators of the feed law must be charged criminally or not at all. District Attorneys prefer a civil forfeiture option for non-intentional violations.
- The United States Department of Agriculture's Food and Drug Administration (FDA) administers federal feed regulations, including medicated feed; this includes licensing medicated feed mills. FDA works in partnership with states and enforces federal laws through warning letters, injunctions, seizures, and criminal penalties. The penalties are more or less severe depending on the intent of the crime.

Impact on DATCP

- The bill does not create any new areas of enforcement and there will be no effect on DATCP workload. There will be no change in the number of commercial feed cases.
- There is no financial benefit to DATCP as the department does not retain fines and forfeitures.
- The State defines these fines and forfeitures in statute; therefore, rulemaking will not be required.

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January 13, 2016

To: Members, Senate Committee on Agriculture, Small Business and Tourism and
Assembly Committee on Agriculture
From: John Manske, Director of Government Relations
RE: Support for SB 514 and AB 646

At a meeting on December 10, 2015, the cooperative business representatives at Cooperative Network's Farm Supply Committee meeting voted to support efforts to advance legislation that creates civil penalties for certain violations of the state's commercial feed and feed product laws. This committee guides our public policy stances on matters affecting the cooperative sector's business operations, including state and federal laws and regulations. Accordingly, Cooperative Network today urges your support of Senate Bill 514 and Assembly Bill 646. It is appropriate that penalties fit the level of violation of laws, orders or administrative rules, and the current commercial feed statute only provides for criminal sanctions as penalties, regardless of the level of violation. Enacting SB 514/AB 646 will create more appropriate penalties for violations of the commercial feed requirements; similar to what already exists for violations of the state's pesticide and fertilizer laws.

Thank you for considering this request.