

Comments  
Of  
PennAg Industries Association  
Before  
Senate Agriculture and Rural Affairs Committee  
February 14, 2007

Good morning. I am Sam Sherk, Assistant Vice President, PennAg Industries Association, and I am representing PennAg and our Executive Vice President, Walt Peechatka, here today.

PennAg Industries Association appreciates the opportunity to offer some comments to this committee about important issues that are facing agriculture and rural Pennsylvania today. We hope that our suggestions are considered as you determine priorities.

First and foremost we want to call your attention to a matter which we believe is the top priority issue during the next year or so. As you know, in July of 2005 the legislature passed and the Governor signed the ACRE legislation. This legislation was long sought after by the agricultural community to address the issue of local governments adopting ordinances which were illegal and onerous to agriculture.

In the 18 months since that law was enacted the Attorney General, who was given the authority to receive complaints from farmers, determine the validity of the complaint, and file an action in Commonwealth Court on behalf of the farmer and against the municipality if he determined that the ordinance was illegal in his judgment, has filed an action in Commonwealth Court in several instances.

Unfortunately, the Court has determined not to hear some of those cases indicating that the statute states that the ordinances must not only be on the books but also that the municipality must have enforced that ordinance against a farmer. To think that a farmer must "test" the municipalities will by attempting to build something or do something that it is known is illegal is asking too much of the good and conscientious folks that make up our agricultural community.

The Court's interpretation is certainly not what the legislature intended. The Attorney General has filed appeals to the State Supreme Court in several instances.

We need to follow future Court decisions for the next few months and determine whether the ACRE legislation may need amendments to clarify this issue. Agriculture has waited a long time for this issue to be addressed. We can not afford to wait much longer and have valid cases returned because of some wording in the statute causes an incorrect and erroneous interpretation. We need to move quickly and decisively to address this issue.

Other issues which we want to bring to your attention are as follows:

- 1) We believe that there may be a need to strengthen the Humane Society Police Officer Certification Act by adding additional educational requirements on certain animal agriculture subjects for those that are certified. We believe that if humane officers are to have the ability to file charges against an agricultural operation they should be properly trained and educated on normal agricultural operations. Further, we think this law and the program would be strengthened if humane officers visiting a farm were accompanied by a veterinarian or someone with expertise in large animals or poultry. The staff of the Department of Agriculture or employees of our land grant institution, Penn State, or the Veterinary School at the University of Pennsylvania, have the expertise to assist in this matter by accompanying humane officers when they visit a farm. It is important that we protect those that labor in animal and poultry agriculture from invalid complaints from someone who is not properly trained and the burdensome costs of fighting those complaints in court.
- 2) Protect confidentiality of information provided under any Premise or Animal Identification Program which is legislated.
- 3) Amend the Pennsylvania Tax Code to eliminate sales tax on building materials for agricultural buildings when the construction is done by someone other than the farmer.
- 4) Consider the feasibility of mandatory, non-binding arbitration for the seed industry to address issues where conflicts between seller and purchaser arise in order to resolve issues as fairly and expeditiously as possible.
- 5) Address the adequacy of the current level of penalties for trespassing into animal and poultry operations where agricultural biosecurity measures are in place and which subject the operation to increased risk of disease.

These are a few of the issues which we would ask your committee to consider in this legislative session. We look forward to working with you as we work together for the benefit of Pennsylvania agriculture and rural Pennsylvania. Thank you.