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Kansas Grain & Feed Association

Kansas Cooperative Council

Kansas Agribusiness Retailers Association

February 13, 2012

To: House Judiciary Committee
From: Randy E. Stookey, General Counsel, Kansas Grain & Feed Association and Kansas Agribusiness Retailers Association; and Leslie Kaufman, Kansas Cooperative Council

Re: Joint Testimony on House Bill 2696 - Product Liability

Chairman Kinzer and members of the Committee, thank you for allowing me the opportunity to comment on HB 2696. Members of our associations represent hundreds of diverse agricultural businesses in Kansas, many of whom are involved in the agricultural retail business.

A recent Kansas Supreme Court has unfortunately created a new cause of action for product liability against sellers of used equipment and products in Kansas. The decision was primarily based on the fact that the Kansas product liability act (KPLA) does not currently indemnify sellers of used products.

This decision will create new costs on sellers of quality used agriculture equipment in Kansas. Due to the high input costs of farming, the commercial market for quality used farming equipment has always been vibrant in this state. The Court's decision will likely increase the costs and reduce the availability of this equipment, which will only serve to harm our Kansas ag-industry. Kansas farmers will soon find themselves necessarily driving to retailers in our neighboring states to purchase this equipment.

HB 2629 adds straight forward language to K.S.A. 60-3306 to prohibit product liability actions against retailers of used products that are sold in substantially the same condition as when they were acquired for resale. This removes liability from the retailer of the used product unless the retailer has somehow manipulated the condition of that product before resale.

Our ag-industry members strive to remain viable and competitive in an ever-changing marketplace. Protection from product liability suits is vital for these retailers to be able to continue doing business in Kansas. Without the protections afforded by HB 2696, the Kansas ag-industry will suffer exposure to unnecessary and harmful litigation that could eventually cripple the Kansas commercial market for quality used farming equipment.

We therefore stand in support of HB 2696 which will allow our members to continue providing quality used equipment and products to Kansas farmers without the threat of a product liability suit. We encourage the committee to act favorably on HB 2696 and pass it out of committee. I thank you for your consideration and will stand for questions.

