

SESSION OF 2012

**CONFERENCE COMMITTEE REPORT BRIEF
SENATE BILL NO. 83**

As Agreed to May 1, 2012

Brief*

SB 83 would amend the Kansas Product Liability Act to provide that a retail seller of used products would not be subject to liability in a claim arising from an alleged defect in a used product sold by the seller if the seller establishes one of three conditions: (1) the seller is tax-exempt under section 501(c)(3) of the Internal Revenue Code; (2) the product liability claim is for strict liability in tort; or (3) the seller resold the product after it was previously used, it was sold in substantially the same condition as it was in when acquired for resale, the manufacturer of the defective product is subject to service of process under Kansas law or the law of the domicile of the claimant, and any judgment against the manufacturer would be reasonably certain of being satisfied.

Conference Committee Action

The Conference Committee agreed to replace the text of SB 83 with language modified from HB 2629, relating to product liability. The modifications included the addition of specific protection for tax-exempt sellers, protection from strict liability tort claims, and more specific elements to be shown by the seller, and the removal of a subsection containing certain exceptions.

Background

As introduced in 2011, SB 83 addressed the temporary judicial employment of retired judges. The 2011 Senate

*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kldr>

Judiciary Committee recommended the bill be passed. The 2011 House Judiciary Committee amended the bill to require the Chief Justice to sign senior judge agreements. The House Committee also added language taken from HB 2101 allowing the Governor to appoint judges to the Kansas Court of Appeals, with Senate confirmation.

Background of HB 2629

In the 2012 House Judiciary Committee, representatives of the Kansas Chamber, Southwest Association of Farm Implement Dealers, Kansas Grain and Feed Association, Kansas Agribusiness Retailers Association, Kansas Cooperative Council, Goodwill Association of Kansas, and National Federation of Independent Business appeared in support of HB 2629. A representative of the Kansas Association for Justice appeared as an opponent. The Committee amended the bill to include an exception for claims arising out of intentional misrepresentation, an alleged breach of an express or implied warranty, or intentional concealment or nondisclosure of a known condition.

In the Senate Judiciary Committee, representatives of the Kansas Chamber, Kansas Grain and Feed Association, Kansas Agribusiness Retailers Association, Kansas Cooperative Council, National Federation of Independent Business, and Goodwill Association of Kansas, as well as local attorneys, appeared in support of HB 2629. The Committee amended the bill to remove the exception for claims arising out of an alleged breach of an express or implied warranty, which was added by the House Committee on Judiciary.

The fiscal note indicates passage of HB 2629, as introduced, would have no fiscal effect.

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Kansas Product Liability Act; product liability claims; resale of used products.