

**Testimony before Senate Judiciary Committee
HB 2629 - Product liability
Presented by Eric Stafford, Senior Director of Government Affairs**



Tuesday, March 6, 2012

Mister Chairman and Members of the Committee:

My name is Eric Stafford and I am the Senior Director of Government Affairs for the Kansas Chamber. The Kansas Chamber is pleased to support House Bill 2629, which was drafted in response to the *Gaumer v. Rossville Truck and Tractor Co.* Kansas Supreme Court decision last year.

The *Gaumer* decision says that re-sellers of used products are subject to strict liability in the instance where that product causes injury, affirming the Court of Appeals' decision which said the seller wasn't negligent but was responsible for strict liability.

HB 2629 would amend the Kansas Product Liability Act to include a second subsection dealing with sellers of used products. The standards established in this new section would be 1) the seller is a retail seller of used products; 2) the product was resold by the seller after the product was used by a consumer or other product user; and 3) the product was sold in substantially the same condition as it was when it was acquired for resale.

We feel purchasers of used goods understand since the product is not new they are assuming some risk for the condition of a product. As long as the reseller didn't significantly alter the product, they should not be held under strict liability for damages caused by the product.

We would request that this committee consider an amendment to the bill. The House amended 2629 to include a section clarifying when an exemption from liability shall not apply. Included in subsection (b)(2) on page 2, lines 2-3 is a reference to "an alleged breach of an express warranty, an alleged breach of implied warranty, as defined by K.S.A. 84-2-314, and amendments thereto". We would ask that the committee delete this reference to express and implied warranties because their inclusion effectively negates the entire purpose of the bill.

Thank you for the opportunity to offer our support of House Bill 2629.



The Kansas Chamber, with headquarters in Topeka, is the leading statewide pro-business advocacy group moving Kansas towards becoming the best state in America to do business. The Chamber represents small, medium and large employers all across Kansas.