

HOUSE BILL No. 2629

By Committee on Judiciary

2-3

Proposed Balloon Amendment
2012 HB 2629
February 16, 2012
Office of Revisor of Statutes

1 AN ACT concerning the Kansas product liability act; relating to a product
2 liability claim arising from an alleged defect in a used product;
3 amending K.S.A. 60-3306 and repealing the existing section.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Sec. 1. K.S.A. 60-3306 is hereby amended to read as follows: 60-
7 3306. ^(a) A product seller shall not be subject to liability in a product liability
8 claim arising from an alleged defect in a product, if the product seller
9 establishes ~~either~~ that: ~~(a)(1)~~ Such seller had no knowledge of the defect;

10 ~~(b)~~ (2) such seller in the performance of any duties the seller
11 performed, or was required to perform, could not have discovered the
12 defect while exercising reasonable care;

13 ~~(c)~~ (3) such seller was not a manufacturer of the defective
14 product or product component;

15 ~~(d)~~ (4) the manufacturer of the defective product or product
16 component is subject to service of process either under the laws of the
17 state of Kansas or the domicile of the person making the product liability
18 claim; and

19 ~~(e)~~ (5) any judgment against the manufacturer obtained by the person
20 making the product liability claim would be reasonably certain of being
21 satisfied; ~~or~~

22 ~~(b)(1) Such seller is a retail seller of used products;~~

23 ~~(2) such seller resold the product after the product was used by a~~
24 ~~consumer or other product user; and~~

25 ~~(3) the product was sold in substantially the same condition as it was~~
26 ~~when it was acquired for resale.~~

27 Sec. 2. K.S.A. 60-3306 is hereby repealed.

28 Sec. 3. This act shall take effect and be in force from and after its
29 publication in the statute book.
30

Strike "either"

Strike "; or" and insert " . "

(b)(1) Except as provided in subsection (b)(2), a retail seller of used products shall not be subject to liability in a product liability claim arising from an alleged defect in a product if the product seller establishes that such seller resold the product after the product was used by a consumer or other product user and the product was sold in substantially the same condition as it was when it was acquired for resale.
(2) The provisions of subsection (b)(1) shall not apply to a claim arising out of intentional misrepresentation, an alleged breach of express warranty, as defined by K.S.A. 84-2-313, and amendments thereto, an alleged breach of implied warranty, as defined by K.S.A. 84-2-314, and amendments thereto, or concealment or nondisclosure of a condition known to such seller.