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Kansas Grain & Feed Association

Kansas Agribusiness Retailers Association

March 6, 2012

To: Senate Judiciary Committee

From: Randy E. Stookey, General Counsel
Kansas Grain & Feed Association
Kansas Agribusiness Retailers Association

Re: Written Testimony on House Bill 2106 - Trespass Liability

Chairman Owens and members of the Committee, thank you for allowing me the opportunity to comment in support of HB 2106. I am Randy Stookey, General Counsel for the Kansas Grain and Feed Association and the Kansas Agribusiness Retailers Association. I submit this written testimony in support of HB 2106 on behalf of our member Associations.

Our members continually strive to operate their businesses in a manner that ensures the safety of all persons involved. Due to the prevalence of lawsuits brought against property owners by trespassers, our members are aware of the danger of failing to have adequate statutory protections for property owners regarding trespasser liability.

Our associations support HB 2106 as an effort to codify the current case law in Kansas regarding: landowner protections from trespasser liability suits, a landowner's right to use justifiable force to repel a trespasser, and a clear standard of a landowner's duty to use ordinary care to mitigate known artificial conditions on their property - where the mitigation is not unduly burdensome to the landowner - to reduce any unnecessary risk of bodily harm to young children trespassers.

In addition, HB 2106 amends Kansas law to protect landowners by ensuring that landowners do not inadvertently allow an easement or adverse possession of their property when they allow a third party entrance onto or access across their property for recreational or other purposes.

As a proactive measure to defend against the potential expansion of trespasser rights which would diminish landowner property rights and otherwise increase landowner duties toward trespassers, we stand in support of HB 2106 and encourage the committee to act favorably on the bill.

