

HOUSE BILL No. 2797

By Committee on Appropriations

5-10

1 AN ACT concerning the Kansas restraint of trade act.

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3 WHEREAS, the purpose of this act is to correct the interpretation of the
4 Kansas restraint of trade act, K.S.A. 50-101 through 50-162, and
5 amendments thereto, made in *O'Brien v. Leegin Creative Leather*
6 *Products, Inc.*, No. 101,000, 2012 WL 1563976 (Kan. Sup. Ct., May 4,
7 2012), which is contrary to the intent of the Kansas legislature in enacting
8 the Kansas restraint of trade act, K.S.A. 50-101 through 50-162, and
9 amendments thereto; to prevent wasteful litigation that would likely result
10 if such interpretation is not corrected; to forestall those potentially affected
11 by such interpretation from ceasing or refusing to do business in Kansas
12 in order to avoid potential liability; and to minimize conflicts between the
13 Kansas restraint of trade act and section 1 of the Sherman Act, 15 U.S.C. §
14 1, and reduce uncertainty as to the law applicable to commerce in Kansas.

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

17 Section 1. (a) An arrangement, contract, agreement, trust,
18 understanding or combination shall not be deemed a trust pursuant to the
19 Kansas restraint of trade act, K.S.A. 50-101 through 50-162, and
20 amendments thereto, and shall not be deemed unlawful, void, prohibited or
21 wrongful under any provision of the Kansas restraint of trade act, K.S.A.
22 50-101 through 50-162, and amendments thereto, if that arrangement,
23 contract, agreement, trust, understanding or combination is or would be
24 deemed a reasonable restraint of trade or commerce under section 1 of the
25 Sherman Act, 15 U.S.C. § 1, as construed and interpreted by the federal
26 courts.

27 (b) Any private action to enforce any provision of the Kansas
28 restraint of trade act, K.S.A. 50-101 through 50-162, and amendments
29 thereto, shall not be brought as a class action.

30 (c) The provisions of this section shall apply retroactively in any
31 pending or future litigation.

32 (d) This section shall be a part of and supplemental to the Kansas
33 restraint of trade act, K.S.A. 50-101 through 50-162, and amendments
34 thereto.

35 Sec. 2. This act shall take effect and be in force from and after its
36 publication in the Kansas register.