

**Testimony before Senate Judiciary Committee  
Senate Bills 123, 124- Restraint of Trade  
Presented by Mike O’Neal, President & CEO**



**Thursday, February 21, 2013**

Mister Chairman and members of the committee:

The Kansas Chamber appreciates the opportunity to testify today on a topic of great importance to the business community in Kansas.

In May 2012, the Kansas Supreme Court erased over 60 years of stable case law under the Kansas Restraint of Trade Act. In response, a bill was introduced during veto session to temporarily (through a sunset provision) overturn the *O’Brien* decision and allow parties to work over the summer on a solution. That effort failed by two votes in the Senate in the final days of the 2012 legislative session.

After the Kansas Judicial Council submitted a report offering two options for the Legislature to consider, the Chamber organized a working group of members with the goal of crafting legislation that could be supported by the business community. While there is universal agreement that reform legislation must pass, we have not yet been able to reach a full and complete agreement on every issue, but will continue to work with our members, and the Legislature, in crafting a final compromise.

This committee has two proposals under consideration. Both SB 123 and SB 124 are amended versions of Subcommittee Report One from the Judicial Council. While I remain optimistic that a compromise can be reached, I would strongly urge the committee to adopt what it feels is the best policy for the state. We cannot end this session without passing a solution to this issue.

One specific recommendation the Kansas Chamber will offer at this time is to repeal the full consideration remedy allowed for under K.S.A. 50-115. This reform has been on our agenda for some time. Kansas is one of only six states with a full consideration remedy. The Kansas Restraint of Trade Act allows a damaged party to collect full consideration, treble damages, and attorney’s fees. Allowing recovery of all three makes the Kansas climate ripe for litigation under the KRTA, and creates an economic disincentive for companies to do business in Kansas.

Thank you for the opportunity to speak to you today on the Kansas Restraint of Trade Act and I’d be happy to answer any questions.



*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.*