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Kansas Grain & Feed Association

Kansas Cooperative Council

Kansas Agribusiness Retailers Association

February 9, 2012

To: Senate Judiciary Committee

From: Randy E. Stookey, General Counsel, Kansas Grain & Feed Association and Kansas Agribusiness Retailers Association; and Leslie Kaufman, Kansas Cooperative Council

Re: Joint Testimony on Senate Bill 285 - Misclassification

Chairman Owens and members of the Committee, thank you for allowing us the opportunity to comment on SB 285. Members of our Associations represent thousands of diverse agricultural businesses in Kansas, and would be directly regulated by this proposed statutory change. We stand in clear opposition to Senate Bill 285, which if passed, would create a new class of felons out of business owners who run afoul of state labor and employment law.

The legislature passed HB 2135 last year, directing the Departments of Labor and Revenue to investigate suspected employee misclassification. The Senate specifically rejected a felony provision and amended the bill to allow for a class A nonperson misdemeanor for multiple violations.

Our ag-industry members work hard to ensure that they remain viable and competitive in an ever-changing and increasingly international marketplace. Our members help to create a strong Kansas economy while providing jobs to working families.

Additionally our members, both large and small, are tasked with complying with an ever increasing burden of federal and state laws and regulations regarding employment and taxation. The expense of that compliance causes our Kansas businesses to shift limited and valuable resources. Those expenses are real and cannot be overstated.

The intentional misclassification of an employee as an independent contractor is currently penalized by civil fine and a potential misdemeanor charges. SB 285 deviates from the clear intent of the Senate last year by elevating this act to a felony offense. Under the Departments of Revenue and Labor, there currently exists sufficient laws and regulations for redress against companies who intentionally fail to withhold or pay taxes for employees. Additionally, passing new felony provisions such as SB 285 will create an anti-business climate and will most certainly chill business growth and expansion in Kansas.

I thank you for your time and would be happy to stand for questions.

