

HOUSE BILL No. 2024

By Representative Highberger

1-11

1 AN ACT concerning consumer protection; relating to the Kansas no-call
2 act; restricting the use of automatic dialing-announcing devices and the
3 use of false information in a telephone caller identification system;
4 amending K.S.A. 2018 Supp. 50-670 and repealing the existing section.

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

7 Section 1. K.S.A. 2018 Supp. 50-670 is hereby amended to read as
8 follows: 50-670. (a) As used in this section and K.S.A. 50-670a, and
9 amendments thereto:

10 (1) "Consumer telephone-~~call~~ *communication*" means a call *or text*
11 *message* made by a telephone solicitor to the residence or mobile
12 telephone number of a consumer for the purpose of:

13 (A) Soliciting a sale of any property or services ~~to the person called,~~
14 ~~or for the purpose of;~~

15 (B) soliciting an extension of credit for property or services ~~to the~~
16 ~~person called, or for the purpose of; or~~

17 (C) obtaining information that will or may be used for the direct
18 solicitation of a sale of property or services ~~to the person called~~ or an
19 extension of credit for such purposes.

20 (2) "Mobile telephone number" means a telephone number associated
21 with a wireless telecommunications service as defined in K.S.A. 2018
22 Supp. 12-5363, and amendments thereto.

23 (3) "Unsolicited consumer telephone-~~call~~ *communication*" means a
24 consumer telephone-~~call~~ *communication* other than a-~~call~~ *communication*
25 made:

26 (A) In response to an express request or with the express written
27 agreement of the person called;

28 (B) primarily in connection with an existing debt or contract,
29 payment or performance of which has not been completed at the time of
30 such-~~call~~ *communication*; or

31 (C) to any person with whom the telephone solicitor or the telephone
32 solicitor's predecessor in interest has an established business relationship,
33 unless the consumer has objected to such consumer telephone-~~calls~~
34 *communications* and requested that the telephone solicitor cease making
35 consumer telephone-~~calls~~ *communications*. The telephone solicitor shall
36 honor any such request for five years from the date of such request.

1 (4) "Telephone solicitor" means any natural person, firm,
 2 organization, partnership, association or corporation who makes or causes
 3 to be made a consumer telephone ~~call~~ *communication*, including, but not
 4 limited to, ~~calls~~ *communications* made by use of *telephone calls, text*
 5 *messages and calls that utilize an automatic dialing-announcing device.*

6 (5) "Automatic dialing-announcing device" means any user terminal
 7 equipment ~~which~~ *that facilitates the transmission of two-way voice or data*
 8 *messages and can:*

9 (A) ~~When connected to a telephone line can~~ Dial, with or without
 10 manual assistance, telephone numbers ~~which~~ *that* have been stored or
 11 programmed in the device or are produced or selected by a random or
 12 sequential number generator; or

13 (B) ~~when connected to a telephone line can~~ disseminate a recorded
 14 message to the telephone number called, either with or without manual
 15 assistance.

16 (6) "Negative response" means a statement from a consumer
 17 indicating the consumer does not wish to listen to the sales presentation or
 18 participate in the solicitation presented in the consumer telephone ~~call~~
 19 *communication.*

20 (7) "Established business relationship" means a prior or existing
 21 relationship formed by a voluntary two-way communication between a
 22 person or entity and consumer with or without an exchange of
 23 consideration, on a basis of an application, purchase or transaction by the
 24 consumer, within the 18 months immediately preceding the date of the
 25 consumer telephone ~~call~~ *communication*, regarding products or services
 26 offered by such person or entity, which relationship has not been
 27 previously terminated by either party.

28 (b) (1) Any telephone solicitor ~~who~~ *that* makes an unsolicited
 29 consumer telephone *communication by making a telephone call* shall:

30 (1)(A) Identify themselves;

31 (2)(B) identify the business on whose behalf such ~~person~~ *telephone*
 32 *solicitor* is soliciting;

33 (3)(C) identify the purpose of the ~~call~~ *communication* immediately
 34 upon making contact by telephone with the ~~person~~ *consumer* who is the
 35 object of the telephone solicitation;

36 (4)(D) promptly discontinue the solicitation if the ~~person~~ *consumer*
 37 being solicited gives a negative response at any time during the consumer
 38 telephone ~~call~~ *communication*; and

39 (5)(E) hang up the phone, or in the case of an automatic dialing-
 40 announcing device operator, disconnect the automatic dialing-announcing
 41 device from the telephone line within 25 seconds of the termination of the
 42 call by the ~~person~~ *consumer* being called; and.

43 (2) *Any telephone solicitor that makes an unsolicited consumer*

1 *telephone communication by sending a text message shall:*

2 *(A) Identify themselves;*

3 *(B) identify the business on whose behalf such telephone solicitor is*
4 *soliciting;*

5 *(C) identify the purpose of the communication immediately upon*
6 *making contact by text message with the consumer who is the object of the*
7 *solicitation; and*

8 *(D) promptly discontinue the solicitation if the consumer being*
9 *solicited gives a negative response at any time after receiving the*
10 *consumer telephone communication.*

11 ~~(6)~~(c) *A telephone solicitor shall not use an automatic dialing-*
12 *announcing device:*

13 *(1) Unless:*

14 *(A) The person being solicited has knowingly or voluntarily*
15 *requested, consented to, permitted or authorized receipt of the consumer*
16 *telephone communication or the communication is immediately preceded*
17 *by a live operator who obtains the person's consent before the*
18 *communication is delivered;*

19 *(B) the solicitor has ensured that a live operator or an automated*
20 *dialing-announcing device shall answer the line within five seconds of the*
21 *beginning of the call. If answered by automated dialing-announcing*
22 *device, the message provided shall include only the information required*
23 *in subsection (b)(1) and (2) the identity of the solicitor and the business on*
24 *whose behalf such person is soliciting, but shall not contain any*
25 *unsolicited advertisement;*

26 *(2) in a manner that the consumer being solicited receives a*
27 *consumer telephone communication before 9 a.m. or after 8 p.m.; and*

28 *(3) to make a communication to any of the following:*

29 *(A) A hospital, an ambulatory surgical center or a recuperation*
30 *center, as those terms are defined in K.S.A. 65-425, and amendments*
31 *thereto;*

32 *(B) an ambulance service or an emergency medical service facility,*
33 *as those terms are defined in K.S.A. 65-6112, and amendments thereto;*

34 *(C) a mental health center, as defined in K.S.A. 65-4432, and*
35 *amendments thereto;*

36 *(D) a psychiatric hospital, as defined in K.S.A. 65-5601, and*
37 *amendments thereto;*

38 *(E) a state institution for people with intellectual disability, as*
39 *defined in K.S.A. 65-5601, and amendments thereto;*

40 *(F) a law enforcement agency; or*

41 *(G) a city, county, township or other public or private fire*
42 *department.*

43 ~~(e)~~(d) *A telephone solicitor shall not:*

1 (1) *Enter or cause to be entered false information into a telephone*
2 *caller identification system with the intent to defraud, cause harm or*
3 *wrongfully obtain anything of value from the recipient of a*
4 *communication;*

5 (2) *make a consumer telephone communication knowing that false*
6 *information was entered into the telephone caller identification system*
7 *with the intent to defraud, cause harm or wrongfully obtain anything of*
8 *value from the recipient of a communication; and*

9 (3) withhold the display of the telephone solicitor's telephone number
10 from a caller identification service when that number is being used for
11 telemarketing purposes.

12 ~~(d)~~(e) A telephone solicitor shall not transmit any written information
13 by facsimile machine or computer to a consumer after the consumer
14 requests orally or in writing that such transmissions cease.

15 ~~(e)~~(f) A telephone solicitor shall not obtain by use of any professional
16 delivery, courier or other pickup service receipt or possession of a
17 consumer's payment unless the goods are delivered with the opportunity to
18 inspect before any payment is collected.

19 ~~(f)~~(g) Local exchange carriers and telecommunications carriers shall
20 not be responsible for the enforcement of the provisions of this section.

21 ~~(g)~~(h) Any violation of this section is an unconscionable act or
22 practice under the Kansas consumer protection act.

23 ~~(h)~~(i) This section shall be part of and supplemental to the Kansas
24 consumer protection act.

25 Sec. 2. K.S.A. 2018 Supp. 50-670 is hereby repealed.

26 Sec. 3. This act shall take effect and be in force from and after its
27 publication in the statute book.