

SENATE BILL No. 126

By Committee on Commerce

2-3

AN ACT concerning certain unsolicited telephone calls; amending
K.S.A. 2002 Supp. 50-670 and repealing the existing section.

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

Section 1. K.S.A. 2002 Supp. 50-670 is hereby amended to read as follows: 50-670. (a) As used in this section and K.S.A. 2002 Supp. 50-670a, and amendments thereto:

(1) "Consumer telephone call" means a call made by a telephone solicitor to the residence of a consumer for the purpose of soliciting a sale of any property or services to the person called, or for the purpose of soliciting an extension of credit for property or services to the person called, or for the purpose of obtaining information that will or may be used for the direct solicitation of a sale of property or services to the person called or an extension of credit for such purposes.

(2) "Unsolicited consumer telephone call" means a consumer telephone call other than a call made:

(A) In response to an express request of the person called;

(B) primarily in connection with an existing debt or contract, payment or performance of which has not been completed at the time of such call;

~~or~~
(C) to any person with whom the telephone solicitor or the telephone solicitor's predecessor in interest has an established business relationship, unless the consumer has objected to such consumer telephone calls and requested that the telephone solicitor cease making consumer telephone calls; *or*

(D) *for the sole purpose of arranging a subsequent face-to-face meeting between a salesperson and the consumer.*

(3) "Telephone solicitor" means any natural person, firm, organization, partnership, association or corporation who makes or causes to be made a consumer telephone call, including, but not limited to, calls made by use of automatic dialing-announcing device.

(4) "Automatic dialing-announcing device" means any user terminal equipment which:

(A) When connected to a telephone line can dial, with or without manual assistance, telephone numbers which have been stored or pro-

1 grammed in the device or are produced or selected by a random or se-
2 quential number generator; or

3 (B) when connected to a telephone line can disseminate a recorded
4 message to the telephone number called, either with or without manual
5 assistance.

6 (5) "Negative response" means a statement from a consumer indi-
7 cating the consumer does not wish to listen to the sales presentation or
8 participate in the solicitation presented in the consumer telephone call.

9 (6) "Established business relationship" means a prior or existing re-
10 lationship formed by a voluntary two-way communication between a per-
11 son or entity and consumer with or without an exchange of consideration,
12 on a basis of an application, purchase or transaction by the consumer,
13 within the preceding 36 months, regarding products or services offered
14 by such person or entity, which relationship has not been previously ter-
15 minated by either party.

16 (b) Any telephone solicitor who makes an unsolicited consumer tel-
17 ephone call to a residential telephone number shall:

18 (1) Identify themselves;

19 (2) identify the business on whose behalf such person is soliciting;

20 (3) identify the purpose of the call immediately upon making contact
21 by telephone with the person who is the object of the telephone
22 solicitation;

23 (4) promptly discontinue the solicitation if the person being solicited
24 gives a negative response at any time during the consumer telephone call;

25 (5) hang up the phone, or in the case of an automatic dialing-an-
26 nouncing device operator, disconnect the automatic dialing-announcing
27 device from the telephone line within 25 seconds of the termination of
28 the call by the person being called; and

29 (6) a live operator or an automated dialing-announcing device shall
30 answer the line within five seconds of the beginning of the call. If an-
31 swered by automated dialing-announcing device, the message provided
32 shall include only the information required in subsection (b)(1) and (2),
33 but shall not contain any unsolicited advertisement.

34 (c) A telephone solicitor shall not withhold the display of the tele-
35 phone solicitor's telephone number from a caller identification service
36 when that number is being used for telemarketing purposes, except that
37 before January 1, 2005, a telephone solicitor's telephone number shall
38 not be required to be displayed when the telephone solicitor's service or
39 equipment is not capable of allowing the display of such number.

40 (d) A telephone solicitor shall not transmit any written information
41 by facsimile machine or computer to a consumer after the consumer
42 requests orally or in writing that such transmissions cease.

43 (e) A telephone solicitor shall not obtain by use of any professional

1 delivery, courier or other pickup service receipt or possession of a con-
2 sumer's payment unless the goods are delivered with the opportunity to
3 inspect before any payment is collected.

4 (f) Local exchange carriers and telecommunications carriers shall not
5 be responsible for the enforcement of the provisions of this section.

6 (g) Any violation of this section is an unconscionable act or practice
7 under the Kansas consumer protection act.

8 (h) This section shall be part of and supplemental to the Kansas con-
9 sumer protection act.

10 Sec. 2. K.S.A. 2002 Supp. 50-670 is hereby repealed.

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

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