

HOUSE BILL No. 2258

By Representatives Holland, Carlin, Crow, Davis, Dillmore, Faust-Goudeau, Feuerborn, Flaharty, Lukert, Ruff, Sawyer and Storm

1-26

10 AN ACT concerning certain telephone calls; pertaining to automated
11 calls for political purposes; amending K.S.A. 50-670 and repealing the
12 existing section.

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

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

18 (1) "Consumer telephone call" means a call made by a telephone
19 solicitor to the residence of a consumer for the purpose of soliciting a
20 sale of any property or services to the person called, or for the purpose
21 of soliciting an extension of credit for property or services to the person
22 called, or for the purpose of obtaining information that will or may be
23 used for the direct solicitation of a sale of property or services to the
24 person called or an extension of credit for such purposes, *or any auto-*
25 *mated call made by a candidate, candidate committee or political com-*
26 *mittee as those terms are defined in K.S.A. 25-4143, and amendments*
27 *thereto.*

28 (2) "Unsolicited consumer telephone call" means a consumer tele-
29 phone call other than a call made:

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

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

34 (C) to any person with whom the telephone solicitor or the telephone
35 solicitor's predecessor in interest has an established business relationship,
36 unless the consumer has objected to such consumer telephone calls and
37 requested that the telephone solicitor cease making consumer telephone
38 calls.

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

43 (4) "Automatic dialing-announcing device" means any user terminal

1 equipment which:

2 (A) When connected to a telephone line can dial, with or without
3 manual assistance, telephone numbers which have been stored or pro-
4 grammed in the device or are produced or selected by a random or se-
5 quential number generator; or

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

9 (5) “Negative response” means a statement from a consumer indi-
10 cating the consumer does not wish to listen to the sales presentation or
11 participate in the solicitation presented in the consumer telephone call.

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

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

21 (1) Identify themselves;

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

23 (3) identify the purpose of the call immediately upon making contact
24 by telephone with the person who is the object of the telephone
25 solicitation;

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

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

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

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

43 (d) A telephone solicitor shall not transmit any written information

1 by facsimile machine or computer to a consumer after the consumer
2 requests orally or in writing that such transmissions cease.

3 (e) A telephone solicitor shall not obtain by use of any professional
4 delivery, courier or other pickup service receipt or possession of a con-
5 sumer's payment unless the goods are delivered with the opportunity to
6 inspect before any payment is collected.

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

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

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

13 Sec. 2. K.S.A. 50-670 is hereby repealed.

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