

As Amended by Senate Committee

Session of 2007

SENATE BILL No. 195

By Committee on Elections and Local Government

1-25

10 AN ACT concerning certain automated telephone calls; pertaining to the
11 use of automated telephone calls for political purposes; amending
12 K.S.A. 25-4156 and ~~50-670~~ and repealing the existing ~~sections~~ **section**.
13

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

15 Section 1. K.S.A. 25-4156 is hereby amended to read as follows: 25-
16 4156. (a) (1) Whenever any person sells space in any newspaper, magazine
17 or other periodical to a candidate or to a candidate committee, party
18 committee or political committee, the charge made for the use of such
19 space shall not exceed the charges made for comparable use of such space
20 for other purposes.

21 (2) Intentionally charging an excessive amount for political advertis-
22 ing is a class A misdemeanor.

23 (b) (1) Corrupt political advertising of a state or local office is:

24 (A) Publishing or causing to be published in a newspaper or other
25 periodical any paid matter which expressly advocates the nomination,
26 election or defeat of a clearly identified candidate for a state or local
27 office, unless such matter is followed by the word "advertisement" or the
28 abbreviation "adv." in a separate line together with the name of the chair-
29 person or treasurer of the political or other organization sponsoring the
30 same or the name of the individual who is responsible therefor;

31 (B) broadcasting or causing to be broadcast by any radio or television
32 station any paid matter which expressly advocates the nomination, elec-
33 tion or defeat of a clearly identified candidate for a state or local office,
34 unless such matter is followed by a statement which states: "Paid for" or
35 "Sponsored by" followed by the name of the sponsoring organization and
36 the name of the chairperson or treasurer of the political or other organ-
37 ization sponsoring the same or the name of the individual who is respon-
38 sible therefor; ~~or~~

39 (C) *telephoning or causing to be contacted by any telephonic means*
40 *including, but not limited to, any device using a voice over internet pro-*
41 *cedure or wireless telephone, any paid matter which expressly advocates*
42 *the nomination, election or defeat of a clearly identified candidate for a*
43 *state or local office, unless such matter is preceded by a statement which*

1 *states: “Paid for” or “Sponsored by” followed by the name of the spon-*
 2 *soring organization and the name of the chairperson or treasurer of the*
 3 *political or other organization sponsoring the same or the name of the*
 4 *individual who is responsible therefor; or*

5 (D) publishing or causing to be published any brochure, flier or other
 6 political fact sheet which expressly advocates the nomination, election or
 7 defeat of a clearly identified candidate for a state or local office, unless
 8 such matter is followed by the name of the chairperson or treasurer of
 9 the political or other organization sponsoring the same or the name of
 10 the individual who is responsible therefor.

11 The provisions of this subsection ~~(C)~~ (D) requiring the disclosure of
 12 the name of an individual shall not apply to individuals making expendi-
 13 tures in an aggregate amount of less than \$2,500 within a calendar year.

14 (2) Corrupt political advertising of a state or local office is a class C
 15 misdemeanor.

16 (c) If any provision of this section or application thereof to any person
 17 or circumstance is held invalid, such invalidity does not affect other pro-
 18 visions or applications of this section which can be given effect without
 19 the invalid application or provision, and to this end the provisions of this
 20 section are declared to be severable.

21 ~~Sec. 2. K.S.A. 50-670 is hereby amended to read as follows: 50-670.~~

22 ~~(a) As used in this section and K.S.A. 50-670a, and amendments thereto:~~

23 ~~—(1) “Consumer telephone call” means a call made by a telephone~~
 24 ~~solicitor to the residence of a consumer for the purpose of soliciting a~~
 25 ~~sale of any property or services to the person called, or for the purpose~~
 26 ~~of soliciting an extension of credit for property or services to the person~~
 27 ~~called, or for the purpose of obtaining information that will or may be~~
 28 ~~used for the direct solicitation of a sale of property or services to the~~
 29 ~~person called or an extension of credit for such purposes.~~

30 ~~—(2) “Unsolicited consumer telephone call” means a consumer tele-~~
 31 ~~phone call other than a call made:~~

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

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

35 ~~or~~

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

41 ~~—(3) “Telephone solicitor” means any natural person, firm, organiza-~~
 42 ~~tion, partnership, association or corporation who makes or causes to be~~
 43 ~~made a consumer telephone call, including, but not limited to, calls made~~

- 1 by use of automatic dialing-announcing device.
- 2 ~~—(4) “Automatic dialing-announcing device” means any user terminal~~
3 ~~equipment which:~~
- 4 ~~—(A) When connected to a telephone line can dial, with or without~~
5 ~~manual assistance, telephone numbers which have been stored or pro-~~
6 ~~grammed in the device or are produced or selected by a random or se-~~
7 ~~quential number generator; or~~
- 8 ~~—(B) when connected to a telephone line can disseminate a recorded~~
9 ~~message to the telephone number called, either with or without manual~~
10 ~~assistance:~~
- 11 ~~—(5) “Negative response” means a statement from a consumer indi-~~
12 ~~cating the consumer does not wish to listen to the sales presentation or~~
13 ~~participate in the solicitation presented in the consumer telephone call.~~
- 14 ~~—(6) “Established business relationship” means a prior or existing re-~~
15 ~~lationship formed by a voluntary two-way communication between a per-~~
16 ~~son or entity and consumer with or without an exchange of consideration,~~
17 ~~on a basis of an application, purchase or transaction by the consumer,~~
18 ~~within the preceding 36 months, regarding products or services offered~~
19 ~~by such person or entity, which relationship has not been previously ter-~~
20 ~~minated by either party.~~
- 21 ~~—(b) Any telephone solicitor who makes an unsolicited consumer tel-~~
22 ~~ephone call to a residential telephone number shall:~~
- 23 ~~—(1) Identify themselves;~~
- 24 ~~—(2) identify the business on whose behalf such person is soliciting;~~
- 25 ~~—(3) identify the purpose of the call immediately upon making contact~~
26 ~~by telephone with the person who is the object of the telephone~~
27 ~~solicitation;~~
- 28 ~~—(4) promptly discontinue the solicitation if the person being solicited~~
29 ~~gives a negative response at any time during the consumer telephone call;~~
- 30 ~~—(5) hang up the phone, or in the case of an automatic dialing-an-~~
31 ~~nouncing device operator, disconnect the automatic dialing-announcing~~
32 ~~device from the telephone line within 25 seconds of the termination of~~
33 ~~the call by the person being called; and~~
- 34 ~~—(6) a live operator or an automated dialing-announcing device shall~~
35 ~~answer the line within five seconds of the beginning of the call. If an-~~
36 ~~swered by automated dialing-announcing device, the message provided~~
37 ~~shall include only the information required in subsection (b)(1) and (2),~~
38 ~~but shall not contain any unsolicited advertisement.~~
- 39 ~~—(c) A telephone solicitor shall not withhold the display of the tele-~~
40 ~~phone solicitor’s telephone number from a caller identification service~~
41 ~~when that number is being used for telemarketing purposes, except that~~
42 ~~before January 1, 2005, a telephone solicitor’s telephone number shall~~
43 ~~not be required to be displayed when the telephone solicitor’s service or~~

1 equipment is not capable of allowing the display of such number.
2 ~~—(d)—A telephone solicitor shall not transmit any written information~~
3 ~~by facsimile machine or computer to a consumer after the consumer~~
4 ~~requests orally or in writing that such transmissions cease.~~
5 ~~—(e)—A telephone solicitor shall not obtain by use of any professional~~
6 ~~delivery, courier or other pickup service receipt or possession of a con-~~
7 ~~sumer's payment unless the goods are delivered with the opportunity to~~
8 ~~inspect before any payment is collected.~~
9 ~~—(f)—A telephone solicitor shall not use or connect to a telephone line~~
10 ~~an automatic dialing-announcing device unless:~~
11 ~~—(1)—The consumer has knowingly or voluntarily requested, consented~~
12 ~~to, permitted or authorized receipt of the message;~~
13 ~~—(2)—the message is immediately preceded by a live operator who ob-~~
14 ~~tains the consent of the consumer called before the message is delivered;~~
15 ~~or~~
16 ~~—(3)—the consumer has an established business relationship with the~~
17 ~~telephone solicitor or the telephone solicitor's predecessor in interest and~~
18 ~~the consumer has not:~~
19 ~~—(A)—Objected to such consumer telephone calls; and~~
20 ~~—(B)—requested that the telephone solicitor cease making consumer tel-~~
21 ~~ephone calls.~~
22 ~~—(g)—Local exchange carriers and telecommunications carriers shall not~~
23 ~~be responsible for the enforcement of the provisions of this section.~~
24 ~~—(g) (h)—Any violation of this section is an unconscionable act or prac-~~
25 ~~tice under the Kansas consumer protection act.~~
26 ~~—(h) (i)—This section shall be part of and supplemental to the Kansas~~
27 ~~consumer protection act.~~
28 Sec. ~~3~~ **2**. K.S.A. 25-4156 and 50-670 are **is** hereby repealed.
29 Sec. ~~4~~ **3**. This act shall take effect and be in force from and after its
30 publication in the statute book.