

**As Amended by House Committee**

Session of 2008

**HOUSE BILL No. 2698**

By Representatives C. Holmes and Loganbill

1-29

10 AN ACT concerning certain ~~automated~~ **unsolicited** telephone calls;  
11 amending K.S.A. 50-670 and repealing the existing section.

12

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

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

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

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

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

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

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

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

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

41 (A) When connected to a telephone line can dial, with or without  
42 manual assistance, telephone numbers which have been stored or pro-  
43 grammed in the device or are produced or selected by a random or se-

1 sequential number generator; or

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

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

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

15 (7) **“Robo-call” means a telephone call to a residential tele-**  
16 **phone number using an artificial or prerecorded voice to deliver**  
17 **a message without the prior express consent of the called party,**  
18 **unless the call is initiated for emergency purposes.**

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

21 (1) *Not place a call between the hours of 8 p.m. and 8 a.m. central*  
22 *time;*

23 ~~(1)~~ (2) identify themselves;

24 ~~(2)~~ (3) identify the business on whose behalf such person is soliciting;

25 ~~(3)~~ (4) identify the purpose of the call immediately upon making con-  
26 tact by telephone with the person who is the object of the telephone  
27 solicitation;

28 ~~(4)~~ (5) promptly discontinue the solicitation if the person being solici-  
29 ited gives a negative response at any time during the consumer telephone  
30 call;

31 ~~(5)~~ (6) hang up the phone, or in the case of an automatic dialing-  
32 announcing device operator, disconnect the automatic dialing-announc-  
33 ing device from the telephone line within 25 seconds of the termination  
34 of the call by the person being called; and

35 ~~(6)~~ (7) a live operator or an automated dialing-announcing device  
36 shall answer the line within five seconds of the beginning of the call. If  
37 answered by automated dialing-announcing device, the message provided  
38 shall include only the information required in subsection ~~(b)(1)~~ (b)(2) and  
39 ~~(2)~~ (3), but shall not contain any unsolicited advertisement.

40 (c) A telephone solicitor shall not withhold the display of the tele-  
41 phone solicitor’s telephone number from a caller identification service  
42 when that number is being used for telemarketing purposes, except that  
43 before January 1, 2005, a telephone solicitor’s telephone number shall

1 not be required to be displayed when the telephone solicitor's service or  
2 equipment is not capable of allowing the display of such number.

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

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

10 **(f) A robo-call shall not be placed between the hours of 8 p.m.**  
11 **and 8 a.m. central time. Any person alleging a violation of this**  
12 **subsection may bring a private action to seek relief pursuant to**  
13 **K.S.A. 50-634, 50-636 and 50-6,104, and amendments thereto, and**  
14 **such person may be defined as a consumer pursuant to K.S.A. 50-**  
15 **624, and amendments thereto, for the purposes of such private**  
16 **action.**

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

19 ~~(g)~~ (h) Any violation of this section is an unconscionable act or prac-  
20 tice under the Kansas consumer protection act.

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

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

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