

## HOUSE BILL No. 2558

By Committee on Judiciary

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9 AN ACT concerning charitable contribution solicitations; relating to con-  
10 sumer telephone calls; amending K.S.A. 17-1766 and 50-670 and re-  
11 pealing the existing sections.  
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13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 17-1766 is hereby amended to read as follows: 17-  
15 1766. All solicitations by professional solicitors shall contain the following  
16 disclosures at the point of solicitation:

17 (a) The name, address and telephone number of the charitable  
18 organization;

19 (b) the registration number, obtained pursuant to K.S.A. 17-1763,  
20 *and amendments thereto*, for the charitable organization;

21 (c) if the solicitation is made by a person acting as a professional  
22 solicitor, the registration number obtained pursuant to K.S.A. 17-1765,  
23 *and amendments thereto*; ~~and~~

24 (d) that an annual financial report required by K.S.A. 17-1763, *and*  
25 *amendments thereto*, for the preceding fiscal year is on file with the sec-  
26 retary of state; *and*

27 (e) *if the solicitation is a consumer telephone call, as defined in K.S.A.*  
28 *50-670, and amendments thereto, all other disclosures required pursuant*  
29 *to K.S.A. 50-670, and amendments thereto.*

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

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

32 (1) "Consumer telephone call" means a call made by:

33 (A) A telephone solicitor to the residence of a consumer for the pur-  
34 pose of soliciting a sale of any property or services to the person called,  
35 or for the purpose of soliciting an extension of credit for property or  
36 services to the person called, or for the purpose of obtaining information  
37 that will or may be used for the direct solicitation of a sale of property or  
38 services to the person called or an extension of credit for such purposes;  
39 *and*

40 (B) *a professional fund raiser or professional solicitor, as defined in*  
41 *K.S.A. 17-1760, and amendments thereto, to the residence of a consumer*  
42 *for the purpose of soliciting a charitable contribution from the person*  
43 *called.*

- 1     *Consumer telephone call shall not include a call made by or on behalf*  
2     *of a charitable organization which is exempt from federal income taxation*  
3     *pursuant to section 501(c)(3) of the federal internal revenue code of 1986,*  
4     *unless such call is made by a professional fund raiser or professional*  
5     *solicitor, as defined in K.S.A. 17-1760, and amendments thereto.*
- 6     (2) “Unsolicited consumer telephone call” means a consumer tele-  
7     phone call other than a call made:  
8     (A) In response to an express request of the person called;  
9     (B) primarily in connection with an existing debt or contract, payment  
10    or performance of which has not been completed at the time of such call;  
11    or  
12    (C) to any person with whom the telephone solicitor or the telephone  
13    solicitor’s predecessor in interest has an established business relationship,  
14    unless the consumer has objected to such consumer telephone calls and  
15    requested that the telephone solicitor cease making consumer telephone  
16    calls.
- 17    (3) “Telephone solicitor” means any natural person, firm, organiza-  
18    tion, partnership, association or corporation who makes or causes to be  
19    made a consumer telephone call, including, but not limited to, calls made  
20    by use of automatic dialing-announcing device.
- 21    (4) “Automatic dialing-announcing device” means any user terminal  
22    equipment which:  
23    (A) When connected to a telephone line can dial, with or without  
24    manual assistance, telephone numbers which have been stored or pro-  
25    grammed in the device or are produced or selected by a random or se-  
26    quential number generator; or  
27    (B) when connected to a telephone line can disseminate a recorded  
28    message to the telephone number called, either with or without manual  
29    assistance.
- 30    (5) “Negative response” means a statement from a consumer indi-  
31    cating the consumer does not wish to listen to the sales presentation or  
32    participate in the solicitation presented in the consumer telephone call.
- 33    (6) “Established business relationship” means a prior or existing re-  
34    lationship formed by a voluntary two-way communication between a per-  
35    son or entity and consumer with or without an exchange of consideration,  
36    on a basis of an application, purchase or transaction by the consumer,  
37    within the preceding 36 months, regarding products or services offered  
38    by such person or entity, which relationship has not been previously ter-  
39    minated by either party.
- 40    (b) Any telephone solicitor who makes an unsolicited consumer tel-  
41    ephone call to a residential telephone number shall:  
42    (1) Identify themselves;  
43    (2) identify the business on whose behalf such person is soliciting;

- 1 (3) identify the purpose of the call immediately upon making contact  
2 by telephone with the person who is the object of the telephone  
3 solicitation;
- 4 (4) promptly discontinue the solicitation if the person being solicited  
5 gives a negative response at any time during the consumer telephone call;
- 6 (5) hang up the phone, or in the case of an automatic dialing-an-  
7 nouncing device operator, disconnect the automatic dialing-announcing  
8 device from the telephone line within 25 seconds of the termination of  
9 the call by the person being called; and
- 10 (6) a live operator or an automated dialing-announcing device shall  
11 answer the line within five seconds of the beginning of the call. If an-  
12 swered by automated dialing-announcing device, the message provided  
13 shall include only the information required in subsection (b)(1) and (2),  
14 but shall not contain any unsolicited advertisement.
- 15 (c) A telephone solicitor shall not withhold the display of the tele-  
16 phone solicitor's telephone number from a caller identification service  
17 when that number is being used for telemarketing purposes, except that  
18 before January 1, 2005, a telephone solicitor's telephone number shall  
19 not be required to be displayed when the telephone solicitor's service or  
20 equipment is not capable of allowing the display of such number.
- 21 (d) A telephone solicitor shall not transmit any written information  
22 by facsimile machine or computer to a consumer after the consumer  
23 requests orally or in writing that such transmissions cease.
- 24 (e) A telephone solicitor shall not obtain by use of any professional  
25 delivery, courier or other pickup service receipt or possession of a con-  
26 sumer's payment unless the goods are delivered with the opportunity to  
27 inspect before any payment is collected.
- 28 (f) Local exchange carriers and telecommunications carriers shall not  
29 be responsible for the enforcement of the provisions of this section.
- 30 (g) Any violation of this section is an unconscionable act or practice  
31 under the Kansas consumer protection act.
- 32 (h) This section shall be part of and supplemental to the Kansas con-  
33 sumer protection act.
- 34 Sec. 3. K.S.A. 17-1766 and 50-670 are hereby repealed.
- 35 Sec. 4. This act shall take effect and be in force from and after its  
36 publication in the statute book.