

SESSION OF 2002

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2767

As Amended by House Committee of the Whole

Brief*

HB 2767 provides for additional consumer protection measures designed to assist persons who are victims of suppliers who perform services or sell products without meeting the requirements of federal, state, or local law. A violation would be an unconscionable act or practice under the Consumer Protection Act.

The House Committee of the Whole amended the bill to insert the following provisions regarding telephone solicitations:

- ! Prohibits any telephone solicitation to a residential telephone number of any consumer who has given notice to the Information Network of Kansas (INK) of an objection to receiving consumer telephone calls.
- ! Provides the procedures for giving notice of an objection to receiving consumer telephone calls, at no cost to the consumer. Consumers who follow the procedure will be listed in a no-call database for the quarter following the deadline for receipt of notice. The notice of objection will be in effect for two years from the date the telephone number first appears in the database.
- ! Prohibits a telephone solicitor from withholding the display of the telephone solicitor's identifying information.
- ! Provisions regarding a person or entity who may obtain a copy of the no-call database, for lawful use, requires a signed written confidentiality agreement, prepared by the Attorney General and INK that:

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.accesskansas.org/legislature/>

" restricts the use of the no-call database except in compliance with the provisions of the bill; and

" prohibits the transfer of a copy of the no-call database to any person or entity who has not signed a written confidentiality agreement.

! A payment of \$25, for each area code per quarter, must be submitted with a signed confidentiality agreement for providing a copy of the no-call database in downloadable electronic format. Money collected will be used to cover the cost of the database. Any excess amounts will be paid to the Attorney General to investigate and prosecute any violations under the bill.

! Provisions regarding a change of telephone number or revocation of a notice of objection are contained in the bill.

! Defines the term "established business relationship" to mean an arrangement or agreement, oral or written, that establishes a pattern of business type activity for the benefit of both parties.

Provisions contained in the House Committee of the Whole amendments regarding telemarketing are also contained in SB 538.

The bill also contains a provision regarding definitions of agricultural terms. For example, a producer under these provisions does not include a commercial fertilizer or pesticide applicator, a feed supplier, or a veterinarian. By inserting these provisions, certain agricultural production contracts will be subject to the Kansas Consumer Protection Act.

Background

The conferee from the Attorney General's Office expressed support for the bill, as drafted. A delegate representing the Kansas Automobile Dealers Association also appeared in support of the original measure.

The fiscal note for the bill as drafted, indicates that the Office of the Attorney General would be able to absorb any administrative costs due to the enactment of the bill.