

HOUSE BILL No. 2110

By Representatives Rhiley, Highberger, Amyx, Capps, Carlin, Carmichael, French, Hoheisel, Howard, Lynn, Ohaebosim, Ousley, Owens, Pannbacker, Probst, L. Ruiz, Waggoner, Warfield and Xu

1-30

1 AN ACT concerning consumer protection; relating to the Kansas no-call
2 act; requirements for communications made using a text message;
3 restricting use of automatic dialing-announcing devices; prohibiting
4 certain conveyances of telephone numbers; transmission of inaccurate
5 caller-ID information; amending K.S.A. 2018 Supp. 50-670 and
6 repealing the existing section.

7
8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. K.S.A. 2018 Supp. 50-670 is hereby amended to read as
10 follows: 50-670. (a) As used in this section and K.S.A. 50-670a, and
11 amendments thereto:

12 (1) "Consumer telephone ~~call~~ *communication*" means a call *or text*
13 *message* made by a telephone solicitor to the residence or mobile
14 telephone number of a ~~consumer~~ *person* for the purpose of:

15 (A) Soliciting a sale of any property or services ~~to the person called,~~
16 ~~or for the purpose of;~~

17 (B) soliciting an extension of credit for property or services ~~to the~~
18 ~~person called, or for the purpose of; or~~

19 (C) obtaining information that will or may be used for the direct
20 solicitation of a sale of property or services ~~to the person called~~ or an
21 extension of credit for such purposes.

22 (2) "Mobile telephone number" means a telephone number associated
23 with a wireless telecommunications service as defined in K.S.A. 2018
24 Supp. 12-5363, and amendments thereto.

25 (3) "Unsolicited consumer telephone ~~call~~ *communication*" means a
26 consumer telephone ~~call~~ *communication* other than a ~~call~~ *communication*
27 made:

28 (A) In response to an express request or with the express written
29 agreement of the person called;

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

33 (C) to any person with whom the telephone solicitor or the telephone
34 solicitor's predecessor in interest has an established business relationship,

1 unless the consumer has objected to such consumer telephone ~~calls-~~
2 *communications* and requested that the telephone solicitor cease making
3 consumer telephone ~~calls~~ *communications*. The telephone solicitor shall
4 honor any such request for five years from the date of such request.

5 (4) "Telephone solicitor" means any natural person, firm,
6 organization, partnership, association or corporation who makes or causes
7 to be made a consumer telephone ~~call~~ *communication*, including, but not
8 limited to, ~~calls~~ *communications* made by use of *telephone calls, text*
9 *messages and calls that utilize an automatic dialing-announcing device*.

10 (5) "Automatic dialing-announcing device" means any user terminal
11 equipment ~~which~~ *that facilitates the transmission of two-way voice or data*
12 *messages and can:*

13 (A) ~~When connected to a telephone line can~~ Dial, with or without
14 manual assistance, telephone numbers ~~which~~ *that* have been stored or
15 programmed in the device or are produced or selected by a random or
16 sequential number generator; or

17 (B) ~~when connected to a telephone line can~~ disseminate a recorded
18 message to the telephone number called, either with or without manual
19 assistance.

20 (6) "Negative response" means a statement from a consumer
21 indicating the consumer does not wish to listen to the sales presentation or
22 participate in the solicitation presented in the consumer telephone ~~call~~
23 *communication*.

24 (7) "Established business relationship" means a prior or existing
25 relationship formed by a voluntary two-way communication between a
26 person or entity and consumer with or without an exchange of
27 consideration, on a basis of an application, purchase or transaction by the
28 consumer, within the 18 months immediately preceding the date of the
29 consumer telephone ~~call~~ *communication*, regarding products or services
30 offered by such person or entity, which relationship has not been
31 previously terminated by either party.

32 (b) (1) Any telephone solicitor who makes an unsolicited consumer
33 telephone ~~call~~ *communication by making or causing to be made a*
34 *telephone call* shall:

35 ~~(1)~~(A) Identify themselves;

36 ~~(2)~~(B) identify the business on whose behalf such ~~person~~ *telephone*
37 *solicitor* is soliciting;

38 ~~(3)~~(C) identify the purpose of the call immediately upon making
39 contact by telephone ~~with the person who is the object of the telephone~~
40 ~~solicitation~~;

41 ~~(4)~~(D) promptly discontinue the solicitation if the person being
42 solicited gives a negative response at any time during the consumer
43 telephone call;

1 ~~(5)~~(E) hang up the phone, or in the case of an automatic dialing-
2 announcing device operator, disconnect the automatic dialing-announcing
3 device from the telephone line within 25 seconds of the termination of the
4 call by the person being called; and

5 ~~(6)~~(F) ensure a live operator or an automated dialing-announcing
6 device shall answer the line within five seconds of the beginning of the
7 call. If answered by automated dialing-announcing device, the message
8 provided shall include only the information required in subsection (b)(1)
9 (A) and ~~(2)~~(b)(1)(B), but shall not contain any unsolicited advertisement.

10 (2) *Any telephone solicitor that makes an unsolicited consumer*
11 *telephone communication by sending or causing to be sent a text message*
12 *shall:*

13 (A) *Identify themselves;*

14 (B) *identify the business on whose behalf such telephone solicitor is*
15 *soliciting;*

16 (C) *identify the purpose of the communication immediately; and*

17 (D) *promptly discontinue the solicitation if the person being solicited*
18 *gives a negative response at any time after receiving the consumer*
19 *telephone communication.*

20 (c) *No person or entity, including any telephone solicitor, shall use an*
21 *automatic dialing-announcing device to make calls to the residence or*
22 *mobile telephone number of a person unless:*

23 (1) (A) *The person being called has knowingly or voluntarily*
24 *requested, consented to, permitted or authorized receipt of such calls or,*
25 *once contact is made, the call is immediately preceded by a live operator*
26 *who obtains the person's consent before the communication is delivered;*

27 (B) *such device is used to make calls that are primarily in connection*
28 *with an existing debt or contract, payment or performance of which has*
29 *not been completed at the time of such call; or*

30 (C) *such device is used to make calls to persons that have an*
31 *established business relationship with the person or entity initiating such*
32 *call, including, but not limited to, utility service providers,*
33 *telecommunications service providers, internet service providers and*
34 *television service providers; and*

35 (2) *the person being called receives such telephone call after 9:00*
36 *a.m. and before 8:00 p.m.*

37 (d) *No person or entity, including any telephone solicitor, shall use*
38 *an automatic dialing-announcing device to make calls to any of the*
39 *following:*

40 (1) *A hospital, an ambulatory surgical center or a recuperation*
41 *center, as such terms are defined in K.S.A. 65-425, and amendments*
42 *thereto;*

43 (2) *an ambulance service or an emergency medical service facility, as*

- 1 *such terms are defined in K.S.A. 65-6112, and amendments thereto;*
 2 *(3) a mental health center, as defined in K.S.A. 65-4432, and*
 3 *amendments thereto;*
 4 *(4) a psychiatric hospital or a state institution for people with*
 5 *intellectual disability, as such terms are defined in K.S.A. 65-5601, and*
 6 *amendments thereto;*
 7 *(5) a law enforcement agency; or*
 8 *(6) a city, county, township or other public or private fire department.*
 9 ~~(e)~~(e) *A telephone solicitor shall not withhold the display of the*
 10 *telephone solicitor's telephone number from a caller identification service*
 11 *when that number is being used for telemarketing purposes.*
 12 ~~(d)~~(f) *A telephone solicitor shall not transmit any written information*
 13 *by facsimile machine or computer to a consumer after the consumer*
 14 *requests orally or in writing that such transmissions cease.*
 15 ~~(e)~~(g) *A telephone solicitor shall not obtain by use of any professional*
 16 *delivery, courier or other pickup service receipt or possession of a*
 17 *consumer's payment unless the goods are delivered with the opportunity to*
 18 *inspect before any payment is collected.*
 19 *(h) (1) No person or entity shall sell, rent or convey any interest in a*
 20 *telephone number to any out-of-state person or entity unless such*
 21 *telephone number is listed or available from directory assistance to the*
 22 *general public so that a member of the general public could determine the*
 23 *source of the telephone number by contacting their telecommunications*
 24 *provider.*
 25 *(2) The provisions of paragraph (1) shall not apply if such telephone*
 26 *number is:*
 27 *(A) Used to provide access to tone-controlled devices for which*
 28 *restricted access to the numbering resource is justified for security or*
 29 *functional purposes;*
 30 *(B) used for any authorized activity of a law enforcement agency; or*
 31 *(C) required to be unlisted by court order.*
 32 *(i) (1) No person or entity shall, in connection with any*
 33 *telecommunications service or IP-enabled voice service, cause any caller*
 34 *identification service to knowingly transmit misleading or inaccurate*
 35 *caller identification information with the intent to defraud, cause harm or*
 36 *wrongfully obtain anything of value.*
 37 *(2) Nothing in this subsection shall be construed to prevent or restrict*
 38 *any person or entity from blocking the capability of any caller*
 39 *identification service to transmit caller identification information.*
 40 *(3) The provisions of paragraph (1) shall not apply:*
 41 *(A) To any authorized activity of a law enforcement agency; or*
 42 *(B) when a court order specifically authorizes the use of caller*
 43 *identification manipulation.*

1 ~~(f)~~(j) *Except as provided in subsection (h)*, local exchange carriers
2 and telecommunications carriers shall not be responsible for the
3 enforcement of the provisions of this section.

4 ~~(g)~~(k) Any violation of this section is an unconscionable act or
5 practice under the Kansas consumer protection act.

6 ~~(h)~~(l) This section shall be part of and supplemental to the Kansas
7 consumer protection act.

8 Sec. 2. K.S.A. 2018 Supp. 50-670 is hereby repealed.

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