

Approved: February 12, 1997  
date

MINUTES OF THE SENATE COMMITTEE ON COMMERCE.

The meeting was called to order by Chairperson Alicia Salisbury at 8:00 a.m. on February 11, 1997 in Room 123-S of the Capitol.

Members present: Senators Salisbury, Barone, Brownlee, Feleciano, Gooch, Jordan, Ranson, Steffes, Steineger and Umbarger.

Committee staff present: Lynne Holt, Legislative Research Department  
Jerry Donaldson, Legislative Research Department  
Bob Nugent, Revisor of Statutes  
Betty Bomar, Committee Secretary

Conferees appearing before the committee:

Art Brown, Mid-America Lumbermens Association  
Don Steiner, Star Lumber and Supply, Wichita  
Steve Rarrick, Deputy Attorney General, Consumer Protection Division  
Bob Storey, DeHart and Darr Associates, Inc.  
Charles Freeman, AARP  
Elwaine Pomeroy, Kansas Credit Attorneys Association and Kansas Collectors Association, Inc.

Others attending: See attached list

Upon motion by Senator Barone, seconded by Senator Gooch, the Minutes of the February 6, 1997 Meeting were unanimously approved.

**SB 136 - Allowing employers to perform criminal background checks on independent contractors**

Art Brown, Mid-America Lumbermens Association testified in support of **SB 136**. Mr. Brown stated in 1996 the Legislature enacted legislation allowing employers to conduct criminal background investigations on prospective employees. The Lumbermens Association and other home supply companies are asking for the same ability to conduct criminal background investigations of independent contractors as provided in **SB 136**. Attachment 1.

Don Steiner, Star Lumber and Supply, Wichita, testified in support of **SB 136**. Star Lumber and Supply's work force is approximately 25% employees and 75% independent contractors. In order to protect the company's liability it is important for the company to have the authority to conduct criminal background investigations on independent contractors in order to protect itself and the public. Mr. Steiner stated his company was advised by its counsel that the present law pertaining to employer-applicant does not include independent contractors. **SB 136** provides home supply companies the authority to conduct the background investigations of independent contractors.

The hearing was concluded.

**SB 151 - Regulation of telephone solicitors**

Steve Rarrick, Deputy Attorney General, Consumer Protection Division, testified in support of **SB 151**. Mr. Rarrick stated **SB 151** provides privacy protection to Kansas citizens from unwanted telephone solicitations. Mr. Rarrick acknowledged the standard response to unwanted telemarketing calls is to say "no" or hang up; however, a target for the majority of calls are the elderly, who are not inclined to hang up the phone. Mr. Rarrick stated the first change in current law is on Page 1, lines 15-28, modifying "consumer telephone call" and "consumer goods or services" definitions. There is presently a separate definition for "consumer goods or services". **SB 151** removes the separate definition and defines "property and services" as defined in the Kansas Consumer Protection Act, in order to alleviate confusion among telemarketers as to whether their solicitations fit the statute. Attachment 2

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON COMMERCE, Room 123-S Statehouse, at 8:00 a.m. on February 11, 1997.

Mr. Rarrick stated the deletion of lines 35 and 36 on Page 1, removes the "existing business relationship" exemption. Kansas citizens should not be subjected to harassing solicitations because they may have an "existing business relationship" for which there currently is no definition. Page 2, Lines 9-28, clarifies and strengthens what is presently required of a telemarketer. Page 2, lines 33-36, is a new section which prevents telemarketers from hiding behind call blocking to cloak their identity.

Mr. Rarrick offered, after discussion with some individuals within the telecommunications industry, additional amendments: Page 2, line 9, adds a definition of "negative response"; Page 2, line 33, adds a new section (c), relating to the telemarketer's ability to take affirmative steps to withhold their number rather than services or hardware available from the telephone company; and line 34, removes the word "business" in order that telemarketers operating from their homes are covered. Mr. Rarrick stated **SB 151** is further amended by adding a new section (e) which reads as follows: "It shall not be a violation of this section if the telephone solicitor can demonstrate: (1) it intended to call a business entity and not the residence of a consumer; and (2) upon determining the call was not made to a business entity, the call was either terminated or made in compliance with this section. This amendment allows telemarketers a defense when they believe they are calling a business number and are, in fact, calling a residence.

Mr. Rarrick stated the proposed legislation is the result of the increased number of consumer complaints received by the Attorney General. This legislation does not infringe on the constitutional rights of anyone, as the U. S. Supreme Court held in *Frisby v. Schultz*. "The State's interest in protecting the well-being, tranquility, and privacy of the home is certainly of the highest order in a free and civilized society. . . Thus, we have repeatedly held that individuals are not required to welcome unwanted speech into their own homes and that the government may protect this freedom."

Mr. Rarrick was asked to provide the Committee a breakdown of the number of cases settled, the dollar amount of penalties paid into the general fund, the dollar amount assessed for fees, and the dollar amount paid in restitution to complainants. The Committee also asked Mr. Rarrick why in some settlements, a business was required to pay certain amounts to charitable institutions.

Bob Storey, representing DeHart and Darr Associates, Inc., a public relations firm who represents the Direct Marketing Association (DMA), testified in opposition to **SB 151** as drafted. Mr. Storey stated there are 40 telephone marketing service companies in Kansas with approximately 4,515 employees. Mr. Storey testified **SB 151** does not strike a reasonable balance between consumer protection and legitimate sellers. Attachment 3

Mr. Storey stated DMA is opposed to the striking of the language on Page 1, line 35-36, referencing "an existing business" and request section (C) be reinserted. DMA is opposed to the 30-second/ask-if-interested requirement, as Kansas businesses are put at a disadvantage; the provision discriminates against telephone sales, and prohibits Kansas sellers from describing the product or service offer. Mr. Storey proposed the language on Page 2, Lines 19-28, be stricken and language conforming with Federal language be inserted to read as follows: "(1) Identity of the seller; (2) that the purpose of the call is to sell goods or services; (3) the nature of the goods and services; and (4) discontinue the call if the person being solicited says she/he is not interested in the goods or services."

Mr. Storey stated the amendments proposed in his testimony protect the consumer by promptly identifying the purpose of the call is to sell goods or services; the nature of the goods or services, as well as conforming Kansas statutes to those of the Federal government.

Charles H. Freeman, AARP, testified in support of **SB 151**. Mr. Freeman stated AARP studies reveal that older consumers lack sufficient marketplace skills to be smart consumers, and consequently are more susceptible to unfair or fraudulent acts. AARP is of the belief that the provisions of **SB 151** will provide the average consumer some advantage over an unsolicited telephone caller. Attachment 4

Elwaine Pomeroy, Kansas Credit Attorneys Association and Kansas Collectors Association, Inc., stated he is interested in **SB 151**, Page 1, lines 35-36, as it applies to existing businesses. The bill does not appear to affect the associations he represents.

The Chair advised the hearing on **SB 151** is continued to February 12. She informed the Committee discussion and action will be taken on bills previously heard.

The meeting was adjourned at 9:00 a.m.

The next meeting is scheduled for February 12, 1997.

# SENATE COMMERCE COMMITTEE GUEST LIST

DATE: February 11, 1997

NAME	REPRESENTING
Bob W. Storey	Pettit & Parr - <del>MA</del>
Mike Reed	AT&T
George Barber	Barber & assoc's
ART BROWN	mid - Am Lumber
DON STEINER	STAR LBR Co. WILMOTA, KS,
Charles Freeman	AARP - STATE LEG. COMMITTEE
Harold Pitts	KCOA
Gail Bright	AG
Susan Salts	AG
Stute Currit	AG
Nancy Kinderberg	AG
Denny Koch	SWB
Rob Hodges	KTA
DRD GRANT	KCCI
Steve Montgomery	MCI
JASON PISSENERGER	DRAD (meat)
Terry Leatherman	KCCF
Doug. FARMER	DOB
Susan Baker	Hein + Weir





## MID-AMERICA LUMBERMENS ASSOCIATION

### TESTIMONY BEFORE THE SENATE COMMERCE COMMITTEE

Senate Bill No. 136

February 11, 1997

*Madame Chair, members of the Senate Commerce Committee, my name is Art Brown, I represent the retail lumber and building material dealers in the State of Kansas through the Mid-America Lumbermens Association. My appearance before you today is to seek the approval of Senate Bill No. 136, which would give employers the ability to do criminal background investigations into prospective independent contractors.*

*In the 1996 session this Committee, and the entire Legislature gave such approval for employers to utilize such criminal background investigations for prospective employees by passage of House Bill No. 2988 (attached.) At that time we tried to add an amendment to the bill before it went to a conference committee. Such a move was seen with favor by some members of this Committee. However, this issue ran into a real political haymaker in the House, and the amendment was never attached, yet the bill itself was finally passed out favorably. We are coming back this year hopefully, to bring this issue to closure.*

*I am not going to address the purpose of this issue myself. I have a member from Wichita, who will enlighten you as to the need of such a provision. I am confident he can articulate this matter far better than I can.*

*After Don's testimony, I will certainly answer any questions you may have regarding this issue and are hopeful that after hearing the discussion on Senate Bill 136, that the Committee will look favorably upon its passage.*

*Senate Commerce Committee  
February 11, 1997*



HOUSE BILL No. 2988

AN ACT concerning employment law; amending K.S.A. 22-4710, 44-710, 44-714 and 44-718 and K.S.A. 1995 Supp. 44-703 and 44-706 and repealing the existing sections.

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

Section 1. K.S.A. 22-4710 is hereby amended to read as follows: 22-4710. (a) It is unlawful for any employer or prospective employer to require a person to inspect or challenge any criminal history record information relating to that person for the purpose of obtaining a copy of the person's record in order to qualify for employment.

(b) Any person violating the provisions of this section shall be deemed guilty of a class A misdemeanor.

(c) Notwithstanding the provisions of subsection (a) or any other provision of this act, an employer may require a job applicant to sign a release allowing the employer to access the applicant's criminal history record information for purposes of determining the applicant's fitness for employment.

(d) The director may charge an employer a reasonable fee for the preparation of a report detailing an applicant's criminal history record information, and pursuant to rules and regulations may establish a fee schedule or charge varying rates depending upon the quantity of information provided.

(e) The director shall be immune from any and all claims or causes of action arising from the release of criminal history record information provided to an employer pursuant to a release signed by a job applicant.

(f) No employer shall be liable for any employment decision based upon knowledge of an applicant's or employee's criminal history record information, provided the information that led to the employment decision reasonably bears upon the applicant's or employee's trustworthiness, or the safety or well-being of the employer's employees or customers.

Sec. 2. K.S.A. 1995 Supp. 44-703 is hereby amended to read as follows: 44-703. As used in this act, unless the context clearly requires otherwise:

(a) (1) "Annual payroll" means the total amount of wages paid or payable by an employer during the calendar year.

(2) "Average annual payroll" means the average of the annual payrolls of any employer for the last three calendar years immediately preceding the computation date as hereinafter defined if the employer has been continuously subject to contributions during those three calendar years and has paid some wages for employment during each of such years. In determining contribution rates for the calendar year, if an employer has not been continuously subject to contribution for the three calendar years immediately preceding the computation date but has paid wages subject to contributions during only the two calendar years immediately preceding the computation date, such employer's "average annual payroll" shall be the average of the payrolls for those two calendar years.

(3) "Total wages" means the total amount of wages paid or payable by an employer during the calendar year, including that part of remuneration in excess of the limitation prescribed as provided in subsection (o)(1) of this section.

(b) "Base period" means the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year, except that the base period in respect to combined wage claims means the base period as defined in the law of the paying state.

(c) (1) "Benefits" means the money payments payable to an individual, as provided in this act, with respect to such individual's unemployment.

(2) "Regular benefits" means benefits payable to an individual under this act or under any other state law, including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85, other than extended benefits.

(d) "Benefit year" with respect to any individual, means the period beginning with the first day of the first week for which such individual files a valid claim for benefits, and such benefit year shall continue for one full year. In the case of a combined wage claim, the benefit year shall be the benefit year of the paying state. Following the termination of a benefit year, a subsequent benefit year shall commence on the first day of the first week with respect to which an individual next files a claim for benefits. When such filing occurs with respect to a week which overlaps



CARLA J. STOVALL  
ATTORNEY GENERAL

State of Kansas

## Office of the Attorney General

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Testimony of  
C. Steven Rarrick, Deputy Attorney General  
Consumer Protection Division  
Office of Attorney General Carla J. Stovall  
Before the Senate Commerce Committee  
RE: SB 151  
February 11, 1997

Chairperson Salisbury and Members of the Committee:

Thank you for the opportunity to appear before you today on behalf of Attorney General Carla J. Stovall to testify in support of Senate Bill 151. My name is Steve Rarrick and I am the Deputy Attorney General for Consumer Protection.

The Attorney General has proposed the amendments to K.S.A. 50-670 which are contained in SB 151. K.S.A. 50-670 was enacted in 1991, and provides privacy protections to Kansas citizens from unwanted telephone solicitations.

The privacy concerns that led to the passage of K.S.A. 50-670 in 1991 still hold true today. Kansas citizens should be entitled to privacy in their own homes. When the telephone rings at dinner time, all Kansas citizens should be able to say "no" once to a telemarketer and have the call terminate. A standard response and solution to this problem, for many of us, is to simply hang up on the offensive caller. Unfortunately, the targets for the majority of these types of calls are the elderly, who are not inclined to hang up the phone. In Kansas, no should mean no, and the call should end.

Over the past year, our office has discovered that many companies, large and small, are not complying with the privacy provisions of K.S.A. 50-670. Attorney General Stovall is supportive of the law as it is currently written, but has proposed some amendments to eliminate interpretation questions that have arisen.

Our first proposal (page 1, lines 15-28) is to modify the "consumer telephone call" and "consumer goods or services" definitions. Currently, there is a separate definition contained within K.S.A. 50-670 for consumer goods or services. We would like to see this definition removed and the general definition of property and services for the Kansas Consumer Protection Act [K.S.A. 50-624(g) and (h)] applied. There has been confusion among telemarketers as to whether their solicitations fit this statute. While Attorney General Stovall firmly believes they do, we would like to see this provision clarified.

*Senate Commerce Committee*

*February 11, 1997*

*Attachment 2-1 thru 2-12*

Our second proposal (page 1, lines 35-36) is to remove the existing business relationship exemption [K.S.A. 50-670(a)(3)(C)]. This is once again based on the basic right of privacy of individuals in their own homes. Kansas citizens should not be subjected to harassing telephone solicitations solely because they may have an existing business relationship with the business on whose behalf the solicitation is being made. In addition, the statute currently does not contain a definition of "existing business relationship," which leaves much room for interpretation and dispute. For example, if I purchase a VCR at a local department store, paying cash, does that allow the store to ignore the privacy provisions of K.S.A. 50-670 when they call me later to pitch a maintenance agreement, and if so, how long does this "existing business relationship" last? Another example is whether a department store or a financial institution may ignore the privacy provisions of this statute when calling a card holder? These interpretation questions and disputes will be eliminated by making the privacy provisions of this statute apply evenly and fairly to all companies making telephone solicitations.

The third proposal (page 2, lines 9-28) clarifies and strengthens what is required now of a telemarketer. We have taken K.S.A. 50-670(b)(2) and set out in specific sections what a telemarketer is required to disclose at the beginning of the solicitation, as well as the requirement to terminate the call upon the receipt of any negative response.

The fourth proposal (page 2, lines 33-36) is a new section aimed at preventing telemarketers from hiding behind call blocking to cloak their identity. Our office has found, in numerous investigations, that the numbers for telemarketers are blocked from appearing on a Caller ID service and/or are not available to a consumer with call-return service. In effect, if a telemarketer is operating illegally, this prevents consumers from tracking back calls which would assist our investigation of complaints filed with our office. We have complaints from many individuals who were called numerous times in the timespan of a few hours or days with no way of knowing from where or whom the call was coming. If a telemarketer knew their call could be traced, it would certainly work to lessen the numbers of offensive calls.

Since our introduction of these amendments, I have had the opportunity to visit with representatives from Southwestern Bell and the Kansas Telecommunications Association. They voiced legitimate concerns with certain provisions of the bill and, recognizing those concerns, we would like to propose additional language for the bill.

First, we would like to add a definition of "negative response", starting at page 2, line 9, to read: "negative response" means a statement from a consumer indicating the consumer does not wish to listen to the sales presentation or participate in the solicitation presented in the consumer telephone call.

Second, in the new section (c), page 2, line 33, we would ask that the words, "be able to", be removed. We would like this section to relate to the telemarketer's ability to take affirmative steps to withhold their number rather than services or hardware available from the telephone



company; and in line 34, we would ask that "business" be removed so that this would cover telemarketers operating from their homes.

Finally, we would like to see a new section added, following section (d), to allow telemarketers a defense when they believe they are calling a business number and are, in fact, calling a business. We would propose: "(e) It shall not be a violation of this section if the telephone solicitor can demonstrate: (1) it intended to call a business entity and not the residence of the consumer; and (2) upon determining the call was not made to business entity, the call was either terminated or made in compliance with this section".

During 1995, our office received 188 complaints related to telephone solicitations. In addition, we received 816 complaints in other categories (advertising, home improvement, land resales, magazines, office equipment and supplies, pest control, recovery companies, satellite dishes, and the travel industry) which are often subjects of telephone solicitation. Of those 816, we would estimate that approximately one-third are telephone solicitation-related complaints (272). For 1996, our office received 490 telephone solicitation complaints and 790 complaints in the other categories referenced above, with approximately one-third (263) estimated to be telephone-related. To date (1997), we have received 47 telephone solicitation complaints and 66 complaints in the additional categories, estimating approximately 22 to be telephone-related.

These numbers demonstrate a dramatic increase in telephone solicitation complaints. Unfortunately, with the deregulation of telephone and cable service, along with an increase in sweepstakes scams, our office anticipates a continuing increase in telephone solicitations to Kansas citizens. Attorney General Stovall certainly does not want these companies, legitimate or otherwise, to run roughshod over Kansas citizens.

I have provided for your review several samples of complaints which have been submitted to our office within the last twelve months. These detail how frustrating it can be for consumers to continually receive harassing telephone solicitations.

You may hear arguments that this law somehow infringes on constitutional rights. However, the U.S. Supreme Court has spoken quite clearly on this issue in numerous cases. I would like to read a section of one U.S. Supreme Court case in particular. Omitting the other legal citations referenced in this quote, the Supreme Court in Frisby v. Schultz, 108 S.Ct. 2495, 487 U.S. 474, 101 L.Ed.2d 420 (1988), said:

The State's interest in protecting the well-being, tranquility, and privacy of the home is certainly of the highest order in a free and civilized society. Our prior decisions have often remarked on the unique nature of the home, the last citadel of the tired, the weary, and the sick, and have recognized that preserving the sanctity of the home, the one retreat to which men and women can repair to escape

from the tribulations of their daily pursuits, is surely an important value.

One important aspect of residential privacy is protection of an unwilling listener. Although in many locations, we expect individuals simply to avoid speech they do not want to hear, the home is different. That we are often captives outside the sanctuary of the home and subject to objectionable speech does not mean we must be captives everywhere. Instead, a special benefit of the privacy all citizens enjoy within their own walls, which the State may legislate to protect, is an ability to avoid intrusions. Thus, we have repeatedly held that individuals are not required to welcome unwanted speech into their own homes and that the government may protect this freedom.

There simply is no right to force speech into the home of an unwilling listener.

It is difficult to believe that any business entity would oppose this consumer friendly bill. The requirements of the existing statute with the proposed amendments are not overly-burdensome, but merely provide privacy protections from unwanted intrusions into the sanctity of the home. It is Attorney General Stovall's belief this is what Kansas citizens want, expect, and deserve.

On behalf of Attorney General Stovall, I urge your favorable consideration of Senate Bill 151. Thank you.

# SENATE BILL No. 151

By Committee on Commerce

1-30

9 AN ACT concerning consumer protection; relating to telephone solici-  
10 tation; amending K.S.A. 50-670 and repealing the existing section.

11

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

13 Section 1. K.S.A. 50-670 is hereby amended to read as follows: 50-  
14 670. (a) As used in this section:

15 (1) "Consumer telephone call" means a call made by a telephone  
16 solicitor *to the residence of a consumer* for the purpose of soliciting a sale  
17 of any ~~consumer goods property~~ or services to the person called, or for  
18 the purpose of soliciting an extension of credit for ~~consumer goods prop-~~  
19 ~~erty~~ or services to the person called, or for the purpose of obtaining  
20 information that will or may be used for the direct solicitation of a sale  
21 of ~~consumer goods property~~ or services to the person called or an exten-  
22 sion of credit for such purposes;

23 ~~(2) "consumer goods or services" means any tangible personal prop-~~  
24 ~~erty which is normally used for personal, family or household purposes;~~  
25 ~~including, without limitation, any such property intended to be attached~~  
26 ~~to or installed in any real property without regard to whether it is so~~  
27 ~~attached or installed; as well as cemetery lots and time-share estates; and~~  
28 ~~any services related to such property;~~

29 ~~(3) (2)~~ (2) "unsolicited consumer telephone call" means a consumer tel-  
30 ephone call other than a call made:

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

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

34 or

35 ~~(C) to any person with whom the telephone solicitor has an existing~~  
36 ~~business relationship; or~~

37 ~~(D) (C)~~ (C) by a newspaper publisher or such publisher's agent or em-  
38 ployee in connection with such publisher's business;

39 (4) (3) "telephone solicitor" means any natural person, firm, organi-  
40 zation, partnership, association or corporation who makes or causes to be  
41 made a consumer telephone call, including, but not limited to, calls made  
42 by use of automatic dialing-announcing device;

43 ~~(5) (4)~~ (4) "automatic dialing-announcing device" means any user ter-

2-5

26

1 minimal equipment which:

2 (A) When connected to a telephone line can dial, with or without  
3 manual assistance, telephone numbers which have been stored or pro-  
4 grammed in the device or are produced or selected by a random or se-  
5 quential number generator; or

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

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

11 (1) Identify themselves and the business on whose behalf such person  
12 is soliciting and the purpose of the call immediately upon making contact  
13 by telephone with the person who is the object of the telephone solici-  
14 tation;

15 (2) within 30 seconds after beginning the conversation, inquire  
16 whether the person being solicited is interested in listening to a sales  
17 presentation and immediately discontinue the solicitation if the person  
18 being solicited gives a negative response; and

19 (1) Identify themselves;

20 (2) identify the business on whose behalf such person is soliciting;

21 (3) identify the purpose of the call immediately upon making contact  
22 by telephone with the person who is the object of the telephone solicitation;

23 (4) within 30 seconds after beginning the conversation, inquire  
24 whether the person being solicited is interested in listening to a sales  
25 presentation;

26 (5) immediately discontinue the solicitation if the person being solici-  
27 tated gives a negative response at any time during the consumer telephone  
28 call; and

29 (3) (6) hang up the phone, or in the case of an automatic dialing-  
30 announcing device operator, disconnect the automatic dialing-announc-  
31 ing device from the telephone line within 25 seconds of the termination  
32 of the call by the person being called.

33 (c) A telephone solicitor shall not be able to withhold the display of  
34 the telephone solicitor's business telephone number from a caller identi-  
35 fication service when that number is being used for telemarketing pur-  
36 poses.

37 (e) (d) Telephone companies shall not be responsible for the enforce-  
38 ment of the provisions of this section and shall not be liable for any error  
39 or omission in the listings made pursuant hereto.

40 (d) (e) Any violation of this section is an unconscionable act or prac-  
41 tice under the Kansas consumer protection act.

42 (e) (f) This section shall be part of and supplemental to the Kansas  
43 consumer protection act.

(5) "negative response" means a statement from a consumer indicating the consumer does not wish to listen to the sales presentation or participate in the solicitation presented in the consumer telephone call.

(c) be able to business

(e) It shall not be a violation of this section if the telephone solicitor can demonstrate: (1) it intended to call a business entity and not the residence of a consumer; and (2) upon determining the call was not made to a business entity, the call was either terminated or made in compliance with this section.

(e) (f)

(f) (g)

- 1 Sec. 2. K.S.A. 50-670 is hereby repealed.
- 2 Sec. 3. This act shall take effect and be in force from and after its
- 3 publication in the statute book.

2-7

## ACTION YOU HAVE TAKEN

HAVE YOU RETAINED AN ATTORNEY REGARDING THIS COMPLAINT? NO IF SO, PLEASE STATE THE NAME, ADDRESS, AND PHONE NUMBER OF YOUR ATTORNEY:

HAS LEGAL ACTION BEEN TAKEN BY YOU OR AGAINST YOU WITH REGARD TO THIS COMPLAINT? NO IF SO, PLEASE DESCRIBE THE CURRENT STATUS OF ANY LEGAL ACTION:

HAVE YOU FILED THIS COMPLAINT WITH ANY OTHER AGENCIES? NO IF SO, LIST NAME OF AGENCY AND STATUS OF COMPLAINT:

## DESCRIPTION OF TRANSACTION

PLEASE DESCRIBE THE TRANSACTION IN CHRONOLOGICAL ORDER (ADD ADDITIONAL PAGES IF NECESSARY).

DUE TO [REDACTED] CONSTANT HARASSMENT NO TRANSACTION WILL EVER TAKE PLACE BETWEEN US. I WOULD JUST LIKE THEM OFF MY BACK. I AM ON TOTAL DISABILITY WITH CHRONIC PULMONARY LUNG DISEASE AND ON OXYGEN FULL TIME. THESE PHONE CALLS DO NOT HELP MY CONDITION AS AGGRAVATION AND STRESS ONLY MAKE MY BREATHING MORE DIFFICULT. I HAVE ASKED THEM NUMEROUS TIMES NOT TO CALL ANYMORE BUT THE CALLS JUST CONTINUE TO GET MORE FREQUENT LAST WEEK FOUR TIMES IN THREE DAYS. IS THERE ANY WAY I CAN HAVE PHONE [REDACTED] REMOVED FROM THEIR CALLING LISTS?

THANK YOU  
[REDACTED]

## DOCUMENTATION OF THE TRANSACTION

PLEASE PROVIDE COPIES OF ALL DOCUMENTS RELEVANT TO THIS COMPLAINT, INCLUDING ADVERTISING MATERIAL, CONTRACTS, WARRANTY INFORMATION, RECEIPTS, LETTERS, CHECKS (FRONT AND BACK), PHOTOGRAPHS, ETC. FAILURE TO PROVIDE ALL RELEVANT DOCUMENTS WILL CAUSE UNNECESSARY DELAY IN THE HANDLING OF YOUR COMPLAINT.

## VERIFICATION

IN FILING THIS COMPLAINT, I UNDERSTAND AND AGREE THAT THE ATTORNEY GENERAL AND HER STAFF ARE NOT MY PRIVATE ATTORNEYS BUT INSTEAD REPRESENT THE STATE OF KANSAS IN ENFORCING LAWS DESIGNED TO PROTECT THE PUBLIC FROM DECEPTIVE AND UNCONSCIONABLE BUSINESS ACTS AND PRACTICES. I UNDERSTAND THAT KANSAS LAW LIMITS THE PERIOD OF TIME DURING WHICH I MAY FILE ANY PRIVATE LEGAL ACTION(S), AND I HAVE BEEN ADVISED TO CONTACT A PRIVATE ATTORNEY IF I HAVE ANY QUESTION CONCERNING THOSE TIME LIMITATIONS AND MY LEGAL RIGHTS WITH REGARD TO ANY PRIVATE ACTION(S). I FURTHER UNDERSTAND AND AGREE THAT THE CONTENTS OF THIS COMPLAINT MAY BE FORWARDED TO THE BUSINESS OR PERSON THE COMPLAINT IS DIRECTED AGAINST OR TO OTHER APPROPRIATE AGENCIES. FINALLY, I VERIFY THAT THE INFORMATION CONTAINED IN THE ABOVE COMPLAINT IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE.

[REDACTED]  
YOUR SIGNATURE  
(REQUIRED)

7-3-86  
DATE

2-8

ACTION YOU HAVE TAKEN

HAVE YOU RETAINED AN ATTORNEY REGARDING THIS COMPLAINT?      IF SO, PLEASE STATE THE NAME, ADDRESS, AND PHONE NUMBER OF YOUR ATTORNEY:

[REDACTED]

HAS LEGAL ACTION BEEN TAKEN BY YOU OR AGAINST YOU WITH REGARD TO THIS COMPLAINT? NO IF SO, PLEASE DESCRIBE THE CURRENT STATUS OF ANY LEGAL ACTION:

HAVE YOU FILED THIS COMPLAINT WITH ANY OTHER AGENCIES? NO IF SO, LIST NAME OF AGENCY AND STATUS OF COMPLAINT:

DESCRIPTION OF TRANSACTION

PLEASE DESCRIBE THE TRANSACTION IN CHRONOLOGICAL ORDER (ADD ADDITIONAL PAGES IF NECESSARY).

[REDACTED] HAS CALLED WANTING TO SELL AS MUCH AS FOUR TIMES A WEEK AND AS MUCH AS FIVE TIMES A DAY. I BLEW MY STACK 3-13-96 WITH A CALLER NAMED MARK, A CONSTRUCTION WORKER. I TOLD HIM I DID NOT WANT [REDACTED] SERVICE AND WANTED LEFT ALONE. HE SAID, NOW THAT I KNOW HOW BAD ITS BOTHERING YOU, I GOING TO PUT YOU ON TOP PRIORITY TO BE CALLED. THAT AFTER NOON MARK CALLED THREE MORE TIMES JUST TO SEE HOW I LIKED BEING CALLED. HE GOT ME SO UP SET I THOUGHT I WAS HAVING A HEART ATTACK. [REDACTED] HAS CALLED TIME 14<sup>TH</sup> 15<sup>TH</sup> AND TODAY THREE WORKING DAYS IN A ROW. THE CALLER TODAY SAID ALL I HAVE TO DO IS BUY TIME SERVICE AND [REDACTED] WOULD LEAVE ME ALONE. I FELT THAT [REDACTED] SHOULD HAVE TO COMPENSATE ME \$100,000.00 FOR ALL THE TROUBLE IVE CAUSED

THE LAST FOUR YEARS DOCUMENTATION OF THE TRANSACTION

PLEASE PROVIDE COPIES OF ALL DOCUMENTS RELEVANT TO THIS COMPLAINT, INCLUDING ADVERTISING MATERIAL, CONTRACTS WARRANTY INFORMATION, RECEIPTS, LETTERS, CHECKS (FRONT AND BACK), PHOTOGRAPHS, ETC. FAILURE TO PROVIDE ALL RELEVANT DOCUMENTS WILL CAUSE UNNECESSARY DELAY IN THE HANDLING OF YOUR COMPLAINT.

VERIFICATION

IN FILING THIS COMPLAINT, I UNDERSTAND AND AGREE THAT THE ATTORNEY GENERAL AND HER STAFF ARE NOT MY PRIVATE ATTORNEYS, BUT INSTEAD REPRESENT THE STATE OF KANSAS IN ENFORCING LAWS DESIGNED TO PROTECT THE PUBLIC FROM DECEPTIVE AND UNCONSCIONABLE BUSINESS ACTS AND PRACTICES. I UNDERSTAND THAT KANSAS LAW LIMITS THE PERIOD OF TIME DURING WHICH I MAY FILE ANY PRIVATE LEGAL ACTION(S), AND I HAVE BEEN ADVISED TO CONTACT A PRIVATE ATTORNEY IF I HAVE ANY QUESTION CONCERNING THOSE TIME LIMITATIONS AND MY LEGAL RIGHTS WITH REGARD TO ANY PRIVATE ACTION(S). I FURTHER UNDERSTAND AND AGREE THAT THE CONTENTS OF THIS COMPLAINT MAY BE FORWARDED TO THE BUSINESS OR PERSON THE COMPLAINT IS DIRECTED AGAINST OR TO OTHER APPROPRIATE AGENCIES. FINALLY, I VERIFY THAT THE INFORMATION CONTAINED IN THE ABOVE COMPLAINT IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE.

[REDACTED SIGNATURE]

YOUR SIGNATURE

03-18-96

DATE

2-9 (1-96 COMP. FORM)

**ACTION YOU HAVE TAKEN**

HAVE YOU RETAINED AN ATTORNEY REGARDING THIS COMPLAINT? NO IF SO, PLEASE STATE THE NAME, ADDRESS, AND PHONE NUMBER OF YOUR ATTORNEY:

HAS LEGAL ACTION BEEN TAKEN BY YOU OR AGAINST YOU WITH REGARD TO THIS COMPLAINT? NO IF SO, PLEASE DESCRIBE THE CURRENT STATUS OF ANY LEGAL ACTION:

HAVE YOU FILED THIS COMPLAINT WITH ANY OTHER AGENCIES? NO IF SO, LIST NAME OF AGENCY AND STATUS OF COMPLAINT:

**DESCRIPTION OF TRANSACTION**

PLEASE DESCRIBE THE TRANSACTION IN CHRONOLOGICAL ORDER (ADD ADDITIONAL PAGES IF NECESSARY).

ALMOST WEEKLY CALLS, WON'T TAKE "NO" FOR AN ANSWER. KEEP CALLING NO MATTER WHAT I SAY. I DON'T WANT TO DO BUSINESS WITH THEM

GET CALLS FROM THEM

GET MAIL FROM THEM

**DOCUMENTATION OF THE TRANSACTION**

PLEASE PROVIDE COPIES OF ALL DOCUMENTS RELEVANT TO THIS COMPLAINT, INCLUDING ADVERTISING MATERIAL, CONTRACTS, WARRANTY INFORMATION, RECEIPTS, LETTERS, CHECKS (FRONT AND BACK), PHOTOGRAPHS, ETC. FAILURE TO PROVIDE ALL RELEVANT DOCUMENTS WILL CAUSE UNNECESSARY DELAY IN THE HANDLING OF YOUR COMPLAINT.

NONE EXISTED

**VERIFICATION**

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YOUR SIGNATURE  
(REQUIRED)

2 Nov 96  
DATE 2-10  
(5-96COMP, FRM)



HAVE YOU RETAINED AN ATTORNEY REGARDING THIS COMPLAINT? NO IF SO, PLEASE STATE THE NAME, ADDRESS, AND PHONE NUMBER OF YOUR ATTORNEY:

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HAVE YOU FILED THIS COMPLAINT WITH ANY OTHER AGENCIES? NO IF SO, LIST NAME OF AGENCY AND STATUS OF COMPLAINT:

DESCRIPTION OF TRANSACTION

PLEASE DESCRIBE THE TRANSACTION IN CHRONOLOGICAL ORDER (USE ADDITIONAL PAGES IF NECESSARY).

Over the last 6 weeks, I have been contacted repeatedly by a telemarketing firm representing [redacted] long distance service. We were contacted most recently on 1-7-97 & 1-8-97. During every call, the solicitor was told we were not interested, and not to contact us again, & please remove this number from their database. On 1-8-97 I again informed these people when they called that I was not interested & that they had been told to remove us from their list, & that they were in violation of the law. They told me no request had been made & I informed them & was going to tell them again & that the conversation would be taped. The solicitor told me I couldn't do that, that it was illegal & began to become very persistent. My machine would not take, due to a violation, however he was told not to contact me again or legal action would result. When asked to put his supervisor on the line, he refused. I hung up on him.

EXHIBITS

PLEASE PROVIDE COPIES OF ALL DOCUMENTS RELEVANT TO THIS COMPLAINT, INCLUDING ADVERTISING MATERIAL, CONTRACTS, WARRANTY INFORMATION, RECEIPTS, LETTERS, CHECKS (FRONT AND BACK), PHOTOGRAPHS, ETC. FAILURE TO PROVIDE ALL RELEVANT DOCUMENTS WILL CAUSE UNNECESSARY DELAY IN THE HANDLING OF YOUR COMPLAINT.

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[Redacted signature area]

YOUR SIGNATURE (REQUIRED)

1-9-97  
DATE

2-11

## ACTION YOU HAVE TAKEN

HAVE YOU RETAINED AN ATTORNEY REGARDING THIS COMPLAINT? NO IF SO, PLEASE STATE THE NAME, ADDRESS, AND PHONE NUMBER OF YOUR ATTORNEY:

HAS LEGAL ACTION BEEN TAKEN BY YOU OR AGAINST YOU WITH REGARD TO THIS COMPLAINT? NO IF SO, PLEASE DESCRIBE THE CURRENT STATUS OF ANY LEGAL ACTION:

HAVE YOU FILED THIS COMPLAINT WITH ANY OTHER AGENCIES? NO IF SO, LIST NAME OF AGENCY AND STATUS OF COMPLAINT:

## DESCRIPTION OF TRANSACTION

PLEASE DESCRIBE THE TRANSACTION IN CHRONOLOGICAL ORDER (ADD ADDITIONAL PAGES IF NECESSARY).

First call was approx. midday on 21<sup>st</sup>. Second call was next day. Last call was Monday 27<sup>th</sup> - all during the day.

I specifically asked at the second call that they make a notation in their computer NOT to call again. The third through fifth calls were split between myself and my wife. Again, we asked them to stop.

Doesn't the FTC require companies to cease when asked? I believe it does.

## DOCUMENTATION OF THE TRANSACTION

PLEASE PROVIDE COPIES OF ALL DOCUMENTS RELEVANT TO THIS COMPLAINT, INCLUDING ADVERTISING MATERIAL, CONTRACTS, WARRANTY INFORMATION, RECEIPTS, LETTERS, CHECKS (FRONT AND BACK), PHOTOGRAPHS, ETC. FAILURE TO PROVIDE ALL RELEVANT DOCUMENTS WILL CAUSE UNNECESSARY DELAY IN THE HANDLING OF YOUR COMPLAINT.

## VERIFICATION

IN FILING THIS COMPLAINT, I UNDERSTAND AND AGREE THAT THE ATTORNEY GENERAL AND HER STAFF ARE NOT MY PRIVATE ATTORNEYS, BUT INSTEAD REPRESENT THE STATE OF KANSAS IN ENFORCING LAWS DESIGNED TO PROTECT THE PUBLIC FROM DECEPTIVE AND UNCONSCIONABLE BUSINESS ACTS AND PRACTICES. I UNDERSTAND THAT KANSAS LAW LIMITS THE PERIOD OF TIME DURING WHICH I MAY FILE ANY PRIVATE LEGAL ACTION(S), AND I HAVE BEEN ADVISED TO CONTACT A PRIVATE ATTORNEY IF I HAVE ANY QUESTIONS CONCERNING THOSE TIME LIMITATIONS AND MY LEGAL RIGHTS WITH REGARD TO ANY PRIVATE ACTION(S). I FURTHER UNDERSTAND AND AGREE THAT THE CONTENTS OF THIS COMPLAINT MAY BE FORWARDED TO THE BUSINESS OR PERSON THE COMPLAINT IS DIRECTED AGAINST OR TO OTHER APPROPRIATE AGENCIES. FINALLY, I VERIFY THAT THE INFORMATION CONTAINED IN THE ABOVE COMPLAINT IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE.

  
YOUR SIGNATURE  
(REQUIRED)

1-31-97  
DATE

2-12  
(6-96COMP.FRM)

TESTIMONY OF BOB W. STOREY

On Senate Bill 151

Senate Commerce Committee - February 11, 1997

Madam Chairperson and Members of the Committee:

I represent DeHart and Darr Associates, Inc., a public relations firm which in turn represents the Direct Marketing Association (DMA). The DMA has 3,600 member companies nationwide with 16 of those member companies headquartered in 8 Kansas cities. Thirty-nine of the member companies have operations in the state of Kansas.

These companies provide approximately 117,730 direct marketing related jobs in Kansas and generate approximately \$11.645 million dollars of sales revenue in state of Kansas.

These are 1996 statistics provided by the WEFA Group, a leading economic and business forecasting and consulting firm with offices in 9 states and 9 foreign countries. If in addition to the above, the DMA represents a consortium of book and recording publishers and manufacturers, such as Reader's Digest, etc.; and magazine publishers of America, (MPA).

There are 40 telephone marketing service companies in Kansas with approximately 4,515 employees.

The purpose of our testimony today is to oppose Senate Bill 151 in it's present form. In addition, we are actually opposing the current law as well, and the purpose of this testimony is to try to strike a reasonable balance between consumer protection and legitimate sellers.

In Section 1, the Bill defines an "unsolicited consumer telephone call." In line 35 in section 1, this bill strikes the language which is currently in the law which states "to any person with whom the telephone solicitor has an existing relationship." We oppose striking this exemption.

The relationship between seller and consumer is a special one. No business can stay in business without retaining current and previous customers. Indeed, development and offering of goods and services are directly related to feedback and response from a seller's customer base.

For many of our companies, the relationship has been a long standing one. For example:

*Senate Commerce Committee  
February 11, 1997*

*Attachment 3-1 thru 3-6*

Subscriber's to Reader's Digest magazine  
Patrons of Olan Mills Photo Studios  
Readers of National Geographic books  
Customers of Sears, J.C. Penney, Montgomery Ward  
Passengers on American Airlines  
Members of Book-of-the-Month Club  
Guests of Holiday Inns  
Drivers of Fords, or Chevrolets, or Pontiacs from  
the local dealer  
Purchasers of the GE appliances  
Customers of the Avon lady  
Patrons of the local beauty shop  
Depositors at the local bank

It is appropriate to exempt companies who are contacting current and previous customers from requirements which should apply to a new contact. There is precedent for such an exemption. The Telephone Consumer Protection Act exempts and "established business relationship."

Let us emphasize here that the exemption for customers, together with an exemption for debt contacts and newspapers, were in this Kansas law because the next provision we will discuss is very onerous.

In addition to the above, SB 151 repeals and reenacts a requirement to identify the caller and purpose and within 30 seconds ask whether the person being solicited is interested in listening to a sales presentation.

We oppose the 30-second/ask-if-interested requirement.

This requirement puts Kansas businesses at a disadvantage, attempts to discriminate against telephone sales, and prohibits Kansas sellers from describing the offer. It defies the concept of persuasion as part of salesmanship - the act or process of urging another to try one's product or service.

This is key. To try  
To preview  
the product or service.

All of the sales which are proposed over the telephone are complete satisfaction guaranteed by the offerer. There are no exceptions to this rule.

We believe we have same right as a retail store to describe the offer in attempting to sell our products to the consumer.

The DMA fully understands that there are fly-by-night or unscrupulous telemarketers operating throughout the country, however, there are far more legitimate and honest telemarketers than the other side, and who are permanent in the business and who provide jobs, for not only Kansans but, others throughout the

United States. We do not think we have a right to annoy or harass the consumer. It wouldn't be good business. Moreover, the only or best contact we may have with a consumer is by telephone. Neither the DMA or any honest telemarketer objects to fully advising a consumer of the nature or product that they are attempting to sell, identifying who is selling a product, or asking the consumer objects to hearing the sales pitch, once the seller has identified himself or herself to the consumer and advised the consumer of what product he or she is promoting. If the consumer, at that point says, I am not interested, then the telemarketer shall hang up immediately.

It appears, however, that at some time, some type of responsibility must belong to the consumer, such as, telling the telemarketer "I'm not interested" or by simply hanging up the telephone without any conversation. Asking this to be done within 30 seconds, however, we believe is unreasonable.

If a telemarketer exceeds the 30 second rules, if even only by a few seconds, then the telemarketer is subject to a fine under the Kansas Consumer Protection Act. That fine can be substantial, at the discretion of the Attorney General.

As stated above, the telemarketers do not have the right to annoy or harass a customer and as a matter of fact, it is already against the law. The Federal Trade Commission, FTC, rules states:

It is an abusive telemarketing act or practice and a violation of this Rule for a telemarketer to engage in, or for a seller to cause a telemarketer to engage in, the following conduct:

Causing any telephone to ring, or engaging any person in telephone conversation, repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.

In addition, let's review the law as it is today.

A consumer only has to hear from a seller once. If the consumer tells the seller not to call again, the seller must enter the consumer's number on the seller's in-house "do not call" list and cannot call that consumer again for 10 years.

A consumer can decide of his or her own free will if he or she wants to hear from national sellers at all.

DMA has sponsored a free service to consumers for over 20 years. The consumer needs only to send his or her number to Telephone Preference Service (TPA) and the name is entered on the not-to-call list. The DMA makes quarterly lists of persons not-to-call available to member companies, list preparers, and non-member companies.

If you do not enroll in TPA and agree to receive calls, then there are 3 Federal Rules which apply:

1. The Telephone Consumer Protection Act (TCPA) adopted by the Federal Communications Commission (FCC); and
2. The Telemarketing Sales Rule; and
3. The Mail and Telephone Order Rule, both are adopted by the Federal Trade Commission (FTC).

What we are proposing is an amendment to the law which is less onerous to business, gives consumer protection and is consistent with federal law.

We strongly urge this committee to adopt the approach we have outlined here. It protects the consumer by promptly identifying that the purpose of the call is to sell goods or services and the nature of the goods or services.

As outlined in the attachments, it would make good sense to have the state law consistent with federal law for the education of the consumer and the consumer's reliance on standards of good business.

Thank you for your consideration.

BOB W. STOREY

## SENATE BILL No. 151

By Committee on Commerce

1-30

9 AN ACT concerning consumer protection; relating to telephone solici-  
10 tation; amending K.S.A. 50-670 and repealing the existing section.

11

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

13 Section 1. K.S.A. 50-670 is hereby amended to read as follows: 50-  
14 670. (a) As used in this section:

15 (1) "Consumer telephone call" means a call made by a telephone  
16 solicitor *to the residence of a consumer* for the purpose of soliciting a sale  
17 of any ~~consumer goods property~~ or services to the person called, or for  
18 the purpose of soliciting an extension of credit for ~~consumer goods prop-~~  
19 ~~erty~~ or services to the person called, or for the purpose of obtaining  
20 information that will or may be used for the direct solicitation of a sale  
21 of ~~consumer goods property~~ or services to the person called or an exten-  
22 sion of credit for such purposes;

23 ~~(2) "consumer goods or services" means any tangible personal prop-~~  
24 ~~erty which is normally used for personal, family or household purposes;~~  
25 ~~including, without limitation, any such property intended to be attached~~  
26 ~~to or installed in any real property without regard to whether it is so~~  
27 ~~attached or installed, as well as cemetery lots and time-share estates; and~~  
28 ~~any services related to such property;~~

29 ~~(3)~~ (2) "unsolicited consumer telephone call" means a consumer tel-  
30 ephone call other than a call made:

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

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

35 ~~(C) to any person with whom the telephone solicitor has an existing~~  
36 ~~business relationship; or~~ REINSTATE LANGUAGE

37 ~~(D)~~ (C) by a newspaper publisher or such publisher's agent or em-  
38 ployee in connection with such publisher's business;

39 ~~(4)~~ (3) "telephone solicitor" means any natural person, firm, organi-  
40 zation, partnership, association or corporation who makes or causes to be  
41 made a consumer telephone call, including, but not limited to, calls made  
42 by use of automatic dialing-announcing device;

43 ~~(5)~~ (4) "automatic dialing-announcing device" means any user ter-

1 minal equipment which:

2 (A) When connected to a telephone line can dial, with or without  
3 manual assistance, telephone numbers which have been stored or pro-  
4 grammed in the device or are produced or selected by a random or se-  
5 quential number generator; or

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

9 (b) Any telephone solicitor who makes an unsolicited consumer tel-  
10 ephone call to a residential telephone number shall ~~AND IN A CLEAR AND CONSPICUOUS MANNER:~~

11 ~~(1) Identify themselves and the business on whose behalf such person  
12 is soliciting and the purpose of the call immediately upon making contact  
13 by telephone with the person who is the object of the telephone solici-  
14 tation;~~

15 ~~(2) within 30 seconds after beginning the conversation, inquire  
16 whether the person being solicited is interested in listening to a sales  
17 presentation and immediately discontinue the solicitation if the person  
18 being solicited gives a negative response; and~~

19 ~~(1) Identify themselves;~~

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

21 ~~(3) identify the purpose of the call immediately upon making contact  
22 by telephone with the person who is the object of the telephone solicitation;~~

23 ~~(4) within 30 seconds after beginning the conversation, inquire  
24 whether the person being solicited is interested in listening to a sales  
25 presentation;~~

26 ~~(5) immediately discontinue the solicitation if the person being solici-  
27 tated gives a negative response at any time during the consumer telephone  
28 call; and~~

29 ~~(3) (6) hang up the phone, or in the case of an automatic dialing-  
30 announcing device operator, disconnect the automatic dialing-announc-  
31 ing device from the telephone line within 25 seconds of the termination  
32 of the call by the person being called.~~

33 (c) A telephone solicitor shall not be able to withhold the display of  
34 the telephone solicitor's business telephone number from a caller identi-  
35 fication service when that number is being used for telemarketing pur-  
36 poses.

37 (e) (d) Telephone companies shall not be responsible for the enforce-  
38 ment of the provisions of this section and shall not be liable for any error  
39 or omission in the listings made pursuant hereto.

40 (d) (e) Any violation of this section is an unconscionable act or prac-  
41 tice under the Kansas consumer protection act.

42 (e) (f) This section shall be part of and supplemental to the Kansas  
43 consumer protection act.

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

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

- 1 THE IDENTITY OF THE SELLER;
  - 2 THAT THE PURPOSE OF THE CALL IS TO SELL GOOD OR SERVICES;
  - 3 THE NATURE OF THE GOODS OR SERVICES; AND
  - 4 DISCONTINUE THE CALL IF THE PERSON BEING SOLICITED SAYS SHE/HIS IS NOT INTERESTED IN THE GOODS OR SERVICES.
- IMMEDIATELY AFTER



Proposed Amendments to SB 151

Page 1	Lines 35 and 36	Restore lines 35 and 36
Page 2	Line 10	after "shall" <u>strike</u> ":" and in a clear and conspicuous manner:'
Page 2	Lines 19 through 28	<u>strike</u> lines 19 through 28
Page 2	Line 19	insert "(1) The identity of the seller; (2) That the purpose of the call is to sell goods or services; (3) The nature of the goods or services; and (4) Discontinue the call if the person being solicited says she/he is not interested int he goods or services."
Page 2	Line 30	after the "," insert "immediately"
Page 2	Line 31	<u>strike</u> "within 25 seconds"



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**KANSAS STATE LEGISLATIVE COMMITTEE**

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**CCTF COORDINATOR**

Mr. Thomas Young  
3348 SW McClure Court  
Topeka, KS 66614  
(913) 273-5737

February 11, 1997

Senator Salisbury, Chairperson, and members of this committee. Good Morning, I am Charles Freeman, from Vassar, Kansas. I am presently the Secretary and one of the fourteen volunteer members of the American Association of Retired Persons, State Legislative Committee. Our committee is like your committee. We are from all walks of life, and from different districts through out the state. We strive for an overall view of our 340,000 members.

It is the committee's position that consumer education is an important part of effective consumer protection. This education can occur at all phases of life, but many citizens lack sufficient marketplace skills to be smart consumers. AARP studies reveal that older consumers are less likely to recognize unfair or fraudulent acts. We also know that some state agencies, and volunteers, are trying to educate our older citizens, but I'm sure you know this is a never ending endeavor.

Our organization supports SB 151 an act concerning consumer protection, relating to telephone solicitation, amending KSA-50-670 and repealing the existing section. We believe if the unsolicited callers comply with all requirements as outlined in SB 151, especially page 2, lines 19 thru 28, it may provide the average consumer some advantage over an unsolicited telephone caller, and is a step forward in consumer protection.

Thank you for this opportunity to present our position on this subject.

Respectfully submitted,

*Charles H. Freeman*

Charles H. Freeman - AARP-SLC

*Senate Commerce  
Committee*

*February 11, 1997*