

Approved: February 13, 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 12, 1997 in Room 123-S of the Capitol.

Members present: Senators Salisbury, Barone, Brownlee, Feleciano, Gooch, Harris, 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:  
Bud Grant, Kansas Chamber of Commerce and Industry (KCCI)  
Mike Reecht, AT&T  
Rob Hodges, Kansas Telecommunications Association

Others attending: See attached list

Upon motion by Senator Steineger, seconded by Senator Ranson, the Minutes of the February 11, 1997 Meeting were unanimously approved.

**SB 151 - Regulation of telephone solicitors**

Bud Grant, KCCI, testified in opposition to **SB 151**, stating the bill will impede commerce in the state. Mr. Grant specifically opposed striking language on Page 1, Lines 35-36 referencing "existing business relationship". Mr. Grant stated there is a concern as to the impact **SB 151** might have on businesses doing business in a usual and customary manner. Mr. Grant proposed reinserting the stricken language on Page 1, Lines 35-36. Attachment 1

Mike Reecht, State Director, AT&T, testified in opposition to **SB 151**, specifically Page 1, Lines 35-36, striking the reference to an "existing business relationship". Mr. Reecht stated when a business has an "existing" relationship with a customer, contact with that customer should not be treated as an "unsolicited" consumer telephone call, but as a contact to foster an existing business relationship. Mr. Reecht proposed the following amendments to **SB 151** as a result of the Telecommunications Act passed by the 1996 Legislature and inasmuch as there is no "list" of persons who asked not to be called maintained: Page 2, Line 37 by striking the words "Telephone companies" and inserting in lieu thereof the words "Local exchange carrier and telecommunications carrier"; Line 38 following the word "section" by inserting a "period (.)"; and striking the remainder of Line 38 and all of line 39. Attachment 2

Rob Hodges, Kansas Telecommunications Association, testified that **SB 151**, Page 2, Lines 33-36, will have no effect on a majority of telephone solicitor calls because large telemarketers use special access which do not generate caller ID information.

The hearing was concluded.

Senator Ranson moved, seconded by Senator Jordan, that **SB 151** be amended on Page 1, by reinserting the stricken language on Lines 35 and 36. The voice vote was in favor of the motion.

Senator Ranson moved, seconded by Senator Steffes, that **SB 151** be amended on Page 2, lines 23-25, by striking subsection (4) in its entirety and renumbering subsections ~~(5)~~ and ~~(6)~~ as (4) and (5). The voice vote was in favor of the motion.

Senator Ranson moved, seconded by Senator Harris, that **SB 151** be amended on Page 2, by deleting lines 33-36 in their entirety and renumbering subsections ~~(d)~~, ~~(e)~~, and ~~(f)~~ as subsections (c), (d) and (e). The vote by a show of hands was in favor of the motion.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON COMMERCE, Room 123-S Statehouse, at 8:00 a.m. on February 12, 1997.

Senator Ranson moved, seconded by Senator Barone, that **SB 151** be amended on Page 2, Line 37 by striking the words "Telephone companies" and inserting in lieu thereof the words "Local exchange carriers and telecommunication carriers", Line 38, following the word "section" by inserting a "period (.)", striking the balance of Line 38 and all of Line 39. The voice vote was in favor of the motion.

The Chair asked the Revisor to prepare a balloon incorporating the above amendments on **SB 151** for Committee consideration and final action on Friday, February 14, 1997.

**SB 78 - Private security guard licensing**

Senator Ranson moved, seconded by Senator Barone, that **SB 78** be reported adversely. The recorded vote was in favor of the motion.

**SB 3 - Workers compensation, 24-hour coverage pilot project**

Philip S. Harness, Director, Division of Workers Compensation, submitted a list of constitutional issues regarding **SB 3**. Attachment 3 The Committee agreed that these issues should be addressed by the task force.

Senator Steffes moved **SB 3** be recommended favorable for passage. Senator Feleciano made a substitute motion that **SB 3** be amended on Page 2, Line 38, by striking the words "without a requirement that there", and on line 39 striking the words "be a bidding process", and on line 41 before the "period (.)" insert the following" through a competitive bidding process". Senator Brownlee seconded the motion.

Senator Feleciano moved that **SB 3** be recommended favorable for passage as amended. Senator Brownlee seconded the motion. The recorded vote was in favor of the motion.

The Committee adjourned at 9:00 a.m.

The next meeting is scheduled for February 13, 1997.

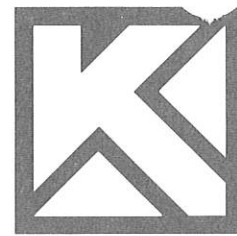
# SENATE COMMERCE COMMITTEE GUEST LIST

DATE: February 12, 1997

NAME	REPRESENTING
Mike Reecht	AT+T
Bud Hunt	KCCI
Uyema Stan	AT&T
Denny Koch	SW BEU
Bob Storey	DMA
Jeff Russell	SPRINT
Elwaine Flomero	Kansas Collectors Assn Inc Kansas Credit Attorneys Assn
Art Brown	mid-m Lumbermen
Charles Warner	Kansas, Inc.
Bernie Koch	Wichita Area Chamber
George Barbee	Barbee & Assoc's
Rob Hodges	Ks Telecom Assn
DAVID BYBEE	KDOCH
Susan Baker	Hein + Weir
Jean Salls	Attorney General
Gail Bright	Attorney General
STEVE RARRICK	ATTORNEY GENERAL
DONALD SKODGRASS	KANSAS FOOD DEALERS ASSOCIATION
Steve Montgomery	MCI

# LEGISLATIVE TESTIMONY

Kansas Chamber of Commerce and Industry



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SB 151

February 11, 1997

## KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the

Senate Commerce Committee

by

Bud Grant

Vice President and General Manager

Madam Chair and members of the Committee:

My name is Bud Grant and I am here today on behalf of the Kansas Chamber of Commerce and Industry (KCCI) to comment briefly on SB 151.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 46% of KCCI's members having less than 25 employees, and 77% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

Let me begin by commending the Attorney General and the Consumer Protection Division for their efforts on behalf of Kansas citizens. The business community supports their actions taken to protect all of us from harassing unwanted telephone calls.

There is only one of the proposed amendments in SB 151 with which we must disagree, and that is contained with the stricken language on page one, lines 35 and 36.

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When a consumer has established a relationship with a business through a purchase, or a series of purchases over a period of time, that consumer has expressed interest in the products or services of that business. If a consumer is a regular purchaser of fine jewelry, and a special sale is scheduled for certain customers, most consumers will welcome a call advising them of the opportunity for real savings. If a consumer purchases a refrigerator, that consumer may decide at a later date a service contract would be a good idea, and a call reminding them would not be offensive.

Madam Chair, we can think of many instances where, when you already have an existing business relationship, e.g. car salesman, real estate, or stockbroker, that a telephone call advising you of an opportunity is not just for the benefit of the caller, but also for the benefit of the consumer.

I urge the committee to reinstate the stricken language in lines 35 and 36 and recommend the bill to the full Senate.

Thank you Madam Chair. I would be pleased to attempt to answer any questions.



Mike Reecht  
Kansas Director  
State Government Affairs

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Phone (913) 232-2128  
Fax (913) 232-9537

**TESTIMONY ON BEHALF OF AT&T  
BEFORE THE SENATE COMMERCE COMMITTEE  
FEBRUARY 12, 1997  
SENATE BILL 151**

Senator Salisbury and members of the Committee:

My name is Mike Reecht and I am State Director for AT&T in the state of Kansas. I appreciate the opportunity to appear before the committee regarding SB 151.

AT&T is not opposed to the bill's general intent or language with the exception of the elimination of former section 3(c) at lines 35-36 of page 1 of the bill draft. It states specifically "to any person with whom the telephone solicitor has an existing business relationship; or".

AT&T, from time to time, will initiate outbound telephone programs that are designed to enhance existing customers' service levels or pricing options. When a customer has established a business relationship with a company such as AT&T, their acceptance of and interest in dealing with AT&T is self-evident. AT&T's call to the customer to inform them of beneficial new service options is not likely to be perceived the same way as a "cold" call. To suggest this type of contact be categorized in the same way as a "cold call" to solicit customers from a competing carrier is not appropriate and should be rejected.

I believe the key operative word is "existing". When a business has an "existing" account with one of its customers, then contact with that customer should not be treated as an "unsolicited consumer telephone call", but rather as a contact to foster an existing business relationship.

AT&T recommends that the language on page 1, lines 35 and 36 be retained in the statute as an exception to an "unsolicited consumer telephone call".

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*Attachment 2-1 thru 2-2*

In addition, on page 2, at line 37, the term "telephone company" is used. As a result of legislation passed last year regarding telecommunications, AT&T recommends that "local exchange carrier" and "telecommunications carrier" should be substituted for "telephone company".

Also, on page 2 at lines 38-39, the last phrase which begins with "and" and ends with "hereto" should be deleted. This phrase references language which was deleted from a previous bill draft. AT&T recommends the phrase be struck.

**SUPPLEMENTAL TESTIMONY BY PHILIP S. HARNESS, DIRECTOR  
DIVISION OF WORKERS COMPENSATION**

**BEFORE THE JOINT COMMITTEES OF THE SENATE COMMERCE  
COMMITTEE AND SENATE FINANCIAL INSTITUTIONS AND INSURANCE  
COMMITTEE ON 1997 SENATE BILL NO. 3**

**HELD JANUARY 30, 1997**

Pursuant to a request by the committee, I will attempt to set down in writing some of the issues which were stated orally on this date. **This should be considered in addition to, and supplemental to, my previous written testimony.**

Senate Bill No. 3, dealing with the issue of medical insurance coverage for both occupational and non-occupational accidents and illnesses (commonly referred to as 24-hour coverage), presents the following additional issues:

j. As a constitutional issue, our Kansas Supreme Court has held that our workers compensation scheme is a permissible alternative to a tort suit by the employee by the against the employer. Please consider that a tort suit would have allowed the employee to recover for damages, i.e. medical bills and future damages due to a loss in future earning ability. Therefore, workers compensation being the exclusive remedy of the employee, and not allowing a suit in tort against the employer, is logical, so long as the employee is not required to contribute to the cost of workers compensation by way of a deductible or co-payment. A suit in tort against the employer, should the employee be successful, would not have required any contribution by the employee; rather, the losing employer would pay for all damages. However, a deductible or co-payment is virtual standard operating procedure in the group health care arena. The constitutional question arises, then, as to whether a co-payment or deductible would be permissible at all when one is addressing an occupational injury or illness as that would seem to change the rules as to whether workers compensation is still a permissible legal alternative to a lawsuit. Therefore, to avoid the question, the pilot program would be placed in the financially unenviable position of \$0 deductible (or \$0 co-payment) medical insurance. Also, one may ask as to the number of employers that pay for 100% of the cost of health care insurance for employees, along with the previous discussion of a \$0 deductible (or \$0 co-payment).

Another constitutional issue arises as to whether employees are afforded equal protection under the law if 24-hour coverage requires a deductible, or co-payment and other employees covered by other traditional workers compensation insurance policies have no such requirement (because it is not statutorily allowed).

k. An issue involves the general area of tail liability, i.e. since the present workers compensation scheme allows for lifetime medical benefits for an occupational injury or illness, how would those benefits be transferred, and ultimately paid for, if and when the pilot project is

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*Attachment 3-1 thru 3-*



terminated or if a covered employee leaves the employ of the covered business and begins work for another employer who is covered by a different type of health care insurer? Does the workers compensation-related lifetime medical benefits require that the pilot project insurance company continue medical insurance for those injuries and illnesses acquired during the time of the first employment, or, if not, would the insurance company of the second employer assert a "pre-existing condition" defense?

l. As to indemnity, would the K.S.A. Chapter 44 test of "arising out of and in the course of employment" apply, i.e. will the employer pay for a policy that awards a worker who may suffer an injury that probably does not "arise out of and in the course of employment"?

m. Will a preexisting disability carry over from an employee participating in the pilot program to an insurance carrier who is not participating in the pilot program?

n. If a claim is filed under the pilot program, who will retain those records and will they remain open? Will there be a waiver of the physician/patient privilege as there is under the Workers Compensation Act?

o. Does the term "equivalency" found in Section 4 of the bill include the same work disability formula found in K.S.A. 44-510e and the scheduled injuries located in K.S.A. 44-510d? The proposed language refers only to "equivalent" benefits but not to the means of deriving those benefits.

p. The language in Section 8 is vague. The exclusive remedy found at K.S.A. 44-501(b) refers to protection under the Workers Compensation Act; however, the pilot program participants would not be under the Workers Compensation Act. Also the term "prohibited defenses" is not defined. Likewise, there is no provision within the proposed legislation taking participants out of the Workers Compensation Act.