

Approved: February 18, 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 14, 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:  
Charles R. Warren, Ph.D., President, Kansas Inc.  
Steve Rarrick, Deputy Attorney General

Others attending: See attached list

Upon motion by Senator Steineger, seconded by Senator Umbarger, the Minutes of the February 13, 1997 Meeting were unanimously approved.

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

Senator Harris moved, seconded by Senator Feleciano, that **SB 136 be recommended favorable for passage.** The recorded vote was in favor of the motion.

**SB 152 - Modification of the high performance incentive program**

Charles Warren, President, Kansas Inc., proposed an amendment to **SB 152**, which changes the formula the Department of Commerce uses in determining whether firms pay higher than average wages and thus, qualify for a high performance incentive program tax credit. Dr. Warren stated the amendment provides that businesses within a metropolitan county will be compared only to other businesses within that metropolitan county and businesses located outside of the metropolitan county will be compared to businesses within an aggregation of counties in that region of the state, excluding the metropolitan county itself. Attachment 1

Senator Harris moved, seconded by Senator Barone, that **SB 152 be amended** on Page 1, Line 31, by inserting a new subsection (c) "For purposes of determining whether one of the average wage option described in subsection (d) below is satisfied, business establishments located within a metropolitan county, as defined in K.S.A. 1996 Supp. 74-50,114(f), will be compared only to other businesses within that metropolitan county, and business establishments located outside of a metropolitan county will be compared to businesses within an aggregation of counties representing the business establishment's region of the state, which regional aggregation will exclude metropolitan counties."; on Line 31, striking existing subsection (e) and making new subsection "(d)"; Line 32, following "(b)" by inserting the words "and using the comparison method described in subsection (c) above.". The motion carried on a voice vote.

Senator Jordan moved, seconded by Senator Brownlee, that **SB 152 be recommended favorable for passage as amended.** The recorded vote was unanimous in favor of the motion.

**SB 151 - Regulation of telephone solicitors**

The Committee reviewed a balloon version of the bill reflecting the action on amendments taken by the Committee at its meeting on February 12, 1997. Attachment 2 The Chair informed the Committee an amendment was adopted on Page 2, Line 38, by inserting a "period (.)" following the word "section"; and by striking the balance of the line and striking all of Line 39, which is not reflected on the balloon and should be

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON COMMERCE, Room 123-S Statehouse, at 8:00 a.m.  
on February 14, 1997.

corrected.

Steve Rarrick, Deputy Attorney General, requested the Committee consider additional amendments to **SB 151**: (1) on Page 1, Line 35 and 36, by rescinding its previous action and reinserting the stricken language; (2) on Page 2, Line 22 by inserting the following: "and inquire whether the person being solicited is interested in listening to a sales presentation"; (3) reinserting the 30 second requirement; reinserting the language referencing caller ID; (4) establishing a consumer education fund.

The Committee adjourned at 9:00 a.m.

The next meeting is scheduled for February 18, 1997.

# SENATE COMMERCE COMMITTEE GUEST LIST

DATE: February 14, 1997

NAME	REPRESENTING
Bob Hodges	Ks Telecom Assn
BUD GRANT	KCCI
Mike Reecht	AT+T
Ungma Star	AT&T
DENNY KOCH	SW Bell
Steve Ravnitz	AG
Dail Bright	AG
Suzanne Salt	AG
Bob Storey	PMA
Nancy Lindberg	AG
Charles Warner	Kansas Inc
Art Brown	<del>Mid-Am Lumberman Assn</del>
Roger Franke	KGC
JASON PITSEBERGER	BRAD SMITH
Ashley Sherard	Overland Park Chamber
Steve Kelly	SDOC & H
David Bybee	
John Peterson	Raytheon Aircraft

**Proposed Changes to KSA 74-50,131 (HPIP):** (file = lawcng3)

(c) For purposes of determining whether one of the average wage options described in subsection (d) below is satisfied, business establishments located within a metropolitan county, as defined in K.S.A. 1996 Suppl. 74-50,114(f), will be compared only to other businesses within that metropolitan county, and business establishments located outside of a metropolitan county will be compared to businesses within an aggregation of counties representing the business establishment's region of the state, which regional aggregation will exclude metropolitan counties.

(e) (d) Additionally, a business establishment having met the criteria as established in subsection (a) or (b), and using the comparison method described in subsection (c) above, must meet one of the following criteria:

(1) The establishment with 500 or fewer full-time equivalent employees will provide an average wage that is above the average wage paid by all firms with 500 or fewer full-time equivalent employees in the same county which share the same two-digit standard industrial classification code.

(2) The establishment with 500 or fewer full-time equivalent employees is the sole firm within its two-digit standard industrial classification code in the county in which it is located which has 500 or fewer full-time equivalent employees.

(3) The establishment with more than 500 full-time equivalent employees will provide an average wage that is above the average wage paid by firms with more than 500 full-time equivalent employees in the same county which share the same two-digit standard industrial classification code.

(4) The establishment with more than 500 full-time equivalent employees is the sole firm within its two-digit standard industrial classification code in the county in which it is located which has 500 or more full-time equivalent employees, in which event it shall either provide an average wage that is above the average wage paid by all firms with 500 or fewer full-time equivalent employees in the same county which share the same two-digit standard industrial classification code, or be the sole firm with in its two-digit standard industrial classification code in the county.

*Senate Commerce Committee  
February 14, 1997*

State regions are to be defined in the HPIP rules & regs.

# 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

37 (D) ~~(E)~~ 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 con-

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

(D)

*Senate Commerce Committee*  
*February 14, 1997*  
*Date Enacted 2-17-97*

2-2

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:

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;~~

(4)

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~~

(5)

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.~~

(c) Telecommunications carriers and local exchange carriers

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

(d)

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

(e)

41 ~~(e) (f) This section shall be part of and supplemental to the Kansas~~