

MINUTES OF THE HOUSE BUSINESS, COMMERCE AND LABOR COMMITTEE.

The meeting was called to order by Chairperson Al Lane at 9:07 a.m. on January 26, 2000 in Room 521-S of the Capitol.

All members were present except: Rep. Bill McCreary - excused
Rep. Mike O'Neal - excused

Committee staff present: Bob Nugent, Revisor of Statutes
Jerry Donaldson, Legislative Research Department
Dennis Hodgins, Legislative Research Department
Bev Adams, Committee Secretary

Conferees appearing before the committee: Steve Rarrick, Deputy Attorney General
Rep. Doug Johnston
Dr. Ernest C. Pogge, AARP
Doug Smith, Dehart, Darr and Associates

Others attending: See attached list

Rep. Grant made a motion to approve the minutes of January 13, 19 and 20. It was seconded by Rep. Ruff. The motion passed and the minutes were approved as written.

Introduction of Bills:

Steve Rarrick, Deputy Attorney General, Chief, Consumer Protection Division, asked the committee to introduce a bill which would amend the Kansas Consumer Protection Act (KCPA). It would expand the definition of "consumer" to include husband and wife operations and would allow an order of sequestration to also act as a lien against the property of a supplier who is alleged to be in violation of the KCPA. (See Attachment 1)

Rep. Humerickhouse made a motion to introduce the bill as a committee bill. The motion was seconded by Rep. Johnson. The motion carried.

Hearing on: **HB 2580 - Telephone solicitations; automated dialing machines**

Rep. Doug Johnston appeared as the author and proponent of **HB 2580**. He introduced the bill in response to some serious concerns of his constituents. They were getting telephone calls and when they answered, there was no one there. This makes many of them nervous as they don't know if they are being stalked, an ex-husband is harassing his ex-wife, or someone is checking to see if they are home. He found that they were telemarketing calls made by automatic dialing machines. If too many calls are made at one time there are not enough operators to answer them. The bill would require telemarketers in Kansas to have a live operator or a recorded voice answer each line they call and within 15 seconds indicate who they are and what they want. He ended his testimony by answering questions from the committee. (See Attachment 2)

Dr. Ernest C. Pogge, Coordinator, Capital City Task Force, AARP, appeared as a proponent of the bill. Their concern is that the 15 seconds stated in the bill is too long, that five seconds would be a more reasonable amount of time. AARP believes that a telephone solicitation call should answer the line immediately and state the true purpose of the call in plain language; provide the name and location of the company being represented; and explain all terms, conditions, costs, and refund or cancellation policies before money is requested. (See Attachment 3)

Doug Smith, appeared in support of the bill on the behalf of the Direct Marketing Association (DMA), and offered an amendment to the bill. DMA recommends inserting on page 2, line 22, the language "or terminate the call" before the period at the end of the sentence. He will check with the DMA to see if the five second amendment is something they can work with. He concluded his testimony by answering questions from the committee. (See Attachment 4)

MINUTES OF THE HOUSE BUSINESS, COMMERCE AND LABOR COMMITTEE, Room 521-S
Statehouse, at 9:07 a.m. on January 26, 2000.

Steve Rarrick, Deputy Attorney General, Chief, Consumer Protection Division, appeared before the committee to talk about "predictive dialing". When the telephone rings at home, primarily during the evening hours, and there is no response when you answer, chances are you are the recipient of "predictive dialing" by a telemarketer. Attorney General Stovall is supportive of the concept addressed by Rep. Johnston's bill, but would add two amendments which she believes would further strengthen the bill. First, the call be answered by either a live operator or a recording so that the consumer knows who is calling them but would recommend shortening the time to five seconds. Second, the insertion of language specifically requiring an automatic dialing-announcing device to provide the information in (b)(1), (2) and (3) referenced in lines 9 through 13 at page 2 of the bill. Mr. Rarrick finished his testimony by answering questions and concerns from the committee. (See Attachment 5)

No others were present to testify for or against **HB 2580** and Chairman Lane closed the hearing.

The meeting was adjourned at 9:45 a.m.

The next scheduled meeting is January 27, 2000.

HOUSE BUSINESS, COMMERCE & LABOR COMMITTEE
GUEST LIST

DATE January 26, 2000

NAME	REPRESENTING
ROSE MULVANY	KCC
JANETTE LUEHRING	KCC
Teresa Salts	A.G.
Gail Bright	A.G.
Nancy Lindberg	AG
Foster Chisholm	AARP
Chaine Dilatrap	AARP
Mike Beecht	AT&T
Doug Smith	Dellert, Darr & Associates
Bud GRANT	KCCI
Donald C. Norwood	AARP
Ernest C. Fogge	AARP- CCTF
Maureen Johnson	AARP- CCTF
Bill Henry	Ks Government Council
Charles H. Freeman	AARP- Ks-SLC
Katrina Hull	University Daily Kansan
Glen Maxwell	KTLN



State of Kansas

Office of the Attorney General
CONSUMER PROTECTION/ANTITRUST DIVISION

301 S.W. 10TH, LOWER LEVEL, TOPEKA 66612-1597
PHONE: (785) 296-3751 FAX: 291-3699 TTY: 291-3767

CARLA J. STOVALL
ATTORNEY GENERAL

January 26, 2000

CONSUMER HOTLINE
1-800-432-2310

The Honorable Al Lane, Chairperson
House Business, Commerce & Labor Committee
State Capitol, Room 521-S
Topeka, Kansas 66612

RE: Bill Introduction

Dear Chairperson Lane and Committee Members:

I would like to take this opportunity to introduce a bill which would amend the Kansas Consumer Protection Act (KCPA) in two areas. First, it would expand the definition of "consumer" to include husband and wife operations. Secondly, it would allow an order of sequestration, which is currently available under the KCPA, to also act as a lien against the property of a supplier who is alleged to be in violation of the KCPA.

Thank you for your consideration in this matter.

Sincerely,

OFFICE OF THE ATTORNEY GENERAL
CARLA J. STOVALL

A handwritten signature in cursive script, appearing to read "C. Steven Rarrick".

C. Steven Rarrick
Deputy Attorney General
Chief, Consumer Protection Division

HOUSE BUSINESS, COMMERCE & LABOR
1-26-00
Attachment 1

DOUGLAS JOHNSTON

REPRESENTATIVE NINETY-SECOND DISTRICT

1450 LIEUNETT
WICHITA, KANSAS 67203
(316) 263-1582

STATE CAPITOL
ROOM 284-W
TOPEKA, KS 66612-1504

(785) 296-7665

LEGISLATIVE HOTLINE 1-800-432-3924

Email: rep_douglas_johnston@mail.ksleg.state.ks.us

State of Kansas



TOPEKA

COMMITTEE ASSIGNMENTS

MEMBER: TAXATION
TRANSPORTATION
ENVIRONMENT
GOVERNMENTAL ORGANIZATIONS
AND ELECTIONS
ADMINISTRATIVE RULES AND
REGULATIONS

House of Representatives

TESTIMONY IN SUPPORT OF HOUSE BILL 2580

January 26, 2000

BY Douglas Johnston, State Representative, District 92 (Wichita)

Thank you Chairman Lane and members of the committee for this opportunity to speak to you about HB 2580. I introduced this bill this summer in response to some serious concerns of my constituents. The purpose of the bill is to alleviate a problem that has become a sad sign of the times.

Last summer people in south-central Kansas began receiving rather mysterious phone calls. These were mysterious because your phone would ring, but when you picked it up and said "Hello?" no one would answer. Please imagine it. Your at home after a hard day of work. You're maybe eating dinner or watching your favorite TV show or spending some quality time with your family. Your phone rings. You answer it. You say "Hello?" but no one is there. This happens over and over again at my home and at the homes of thousands of our constituents. You don't know if it is a prank call or someone casing your home for a potential burglary. Most of the time these calls are coming from telemarketers who use automatic dialing phone systems. Here is how it works: Their computerized phone systems dial dozens or perhaps even hundreds of lines at virtually one time. Lots of our phones ring. But the telemarketers don't have enough live operators available to handle each call that is answered. The result is only the first people to answer their phones are spoken to by operators. The rest of us get nothing--not even a person or voice mail system that would allow us to tell them to take our name and phone number off of their calling list.

This problem came to my attention when it began happening to me. And when my wife was home alone and these calls came in it made me nervous. We didn't know who was calling. A neighbor called and was concerned that her X-husband was calling her and stalking her again. She was scared. An elderly constituent called me. At first she was scared by the calls. She thought someone was calling to find out if she lived alone...

It is important to note that if you or me or any other individual citizen called people's homes at random and didn't say anything--and also didn't hang up when the call was answered--that would be illegal. This fact was noted by Bob Getz of the Wichita Eagle. (See attached article.)

Is it too much to ask for telemarketing companies to obey the same laws--and common courtesy--that we live by? This bill will require companies doing telemarketing in Kansas to have a live operator or a recorded voice answer each line they call and within 15 seconds indicate who they are and what they want. This may require some companies to upgrade their phone systems or computer systems, but that is simply a part of the cost of doing business.

I want to take this opportunity to note also that 15 seconds is a long time. It may be too long, in fact. If it is the wisdom of the committee that 15 seconds is too long then please be my guest and amend the bill as you see fit.

One last point: You constituents will love this bill. Please support the legislation.

Thank you for your time and attention.

Douglas Johnston
State Representative, District 92

HOUSE BUSINESS, COMMERCE & LABOR

1-26-00

Attachment 2

sound a tone and then broadcast warnings that will allow people in outlying areas to take cover from tornadoes or evacuate from oncoming floodwaters.

Full story, 19A

MORE BRIEFS, 19A

Phil Ruffin makes a deal to buy the Wichita Greyhound Park. Sources said the price was about \$10.5 million. The park lost about \$760,000 the year before.

■ January 1999: Phil Ruffin announced he would lead a drive to legalize slot machines at pari-mutuel tracks.

Ruffin

and the Greyhound Hall of Fame are located in Abilene.

■ There are 55 greyhound tracks in 18 states. Annual attendance is more than 27 million.

■ Greyhounds cover a 5/16th-mile track in about 31 seconds, reaching speeds up to 45 mph.

sorts of people in the party, whether pro-life or pro-choice or pro-gun or anti-gun." Then he added, "during the time that I am state chairman, never again will a single-issue group take control of the party and attempt to control its apparatus."

See REPUBLICANS, Page 22A

Getting mystery phone calls? Guess WHO?

And I thought telemarketers were evil before.

Do you know what those companies, those people, are up to now?

As if phoning us morning and night and during meals and other private activities like dinner and family spats isn't in itself bad enough, now they are phoning people and hanging up on them without saying anything.

Sorry. Please pardon my emotional italicized outburst there. But I'm extremely flabbergasted by this new method of telemarketing torment.

Jerry Hein of Wichita tipped me off about it.

"Did you know about these dead phone calls you get at night?" Hein said. "You get a phone call and pick it up and there's nobody there. And it seems like a whole bunch of people have been getting these calls."

"They're coming from telemarketers who will call like 30 people at one shot but only

talk to the first person that answers."

And so they do.

To check on this, I phoned Southwestern Bell's Call Trace Center in Topeka Friday.

Sandy Sullivan is one of the most engaging people I've talked to in a while.

Sullivan, a service rep, seemed to wonder what planet I've been on lately. She couldn't believe I haven't heard about this before.



BOB GETZ

"It's very common now," she said. "They (the telemarketing fiends) have been using this method for about 18 months now."

"It's all automated. They'll dial 15 or 50 or about any number of calls at one time, and then, depending on the number of phone solicitors they have working, they'll only talk

to that number of people who are the first to answer. All the rest of the calls go back into their computer to be called again."

Again? Like when? Soon enough to be alarming? Maddening? Vaguely worrisome?

"Any time. It can be the same hour, later the same day or night, the next day, the next week — whatever."

Technically, the telemarketers don't really hang up on people on these calls. It just seems like it.

"When you answer on these calls," Sullivan explained, "you hear a single beep, followed by dead silence."

Actually, you're on hold. If you wait long enough, a phone solicitor might come on the line and speak to you. Except there's no way of knowing this at the time.

Is this not seriously flabbergasting? Heck, with a telemarketing method like this, who needs phone pranksters, weirdos and heavy breathers harassing us?

"It's legal," Sullivan said. "From 8 a.m. to 9

p.m., seven days a week."

While Sullivan thinks most people have heard about this, I'm inclined to doubt it.

And I have to wonder how some people, especially ones who live alone, feel after getting what they think are strange hang-up calls.

Without meaning to, are phone solicitors, scaring some people to death? Worrying them silly?

"We handle lots of calls from people who ask about it," Sullivan said, "but we can't touch a telemarketer because they're not doing anything wrong."

But there are a couple of things you can do if you don't enjoy getting these calls.

No. 1, you can do a "call trace" to try to find out whom the call was from.

After you get the strange call, you dial star 57. Then wait until a prompter tells you the trace was successful. After that, wait about 30 minutes and phone the Call Trace Center, 1-800-861-5167. If the call turns out to

be from a telemarketing service, someone will take care of getting your name removed from their list. That costs \$8.

"About 90 percent of the traces are from telemarketing services," Sullivan said. "and we tell people that up front, if they want to save the eight bucks."

Then people are told about option No. 2, which is free.

You can get your name removed from most telemarketing lists. To do this, you send a post card to Telephone Preference Service, P.O. Box 9014, Farmingdale, N.Y. 11735, and ask to be removed from telemarketing lists. If you go this route, Sullivan suggests doing it every two years.

Regardless, maybe some people who've been baffled by calls like this will feel better now.

Harassed, maybe. But better.

"This is not really harassment," Sandy Sullivan said. "It's the world of 2000."

I can think of only one appropriate word in response to that.

Help!

Bob Getz can be reached at 268-6594 or bgetz@wichitazeagle.com.



in Kansas

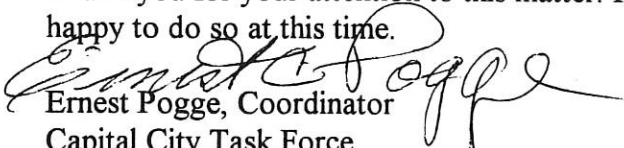
January 26, 2000

Good morning Representative Lane and Members of the House Business, Commerce and Labor Committee. I am a volunteer and Coordinator of our AARP Capital City Task Force. We represent the concerns and interests of our more than 344,000 members in Kansas. Thank you for this opportunity to express our views regarding House Bill 2580 and automated announcing devices.

Telemarketing fraud victimizes people of all ages, ethnic groups, educational backgrounds and income levels. The National Consumers League estimates that consumers lose \$40 to \$60 billion a year to telemarketing fraud. Unfortunately, many unscrupulous telemarketers target older Americans.

Fraudulent telephone solicitors know that if they can keep a consumer on line for any length of time, they will stand a better chance of defrauding that person. We therefore believe that a telephone solicitation call should answer the line *immediately* and state the true purpose of the call in plain language; provide the name and location of the company being represented; and explain all terms, conditions, costs, and refund or cancellation policies before money is requested.

Thank you for your attention to this matter. If I can answer any questions, I would be happy to do so at this time.


Ernest Pogge, Coordinator
Capital City Task Force
785/842-2317

HOUSE BUSINESS, COMMERCE & LABOR

1-26-00

Attachment 3

Direct Marketing Association

TESTIMONY
HOUSE BUSINESS, COMMERCE AND LABOR COMMITTEE
HOUSE BILL NO. 2580
January 26, 2000

Dear Representative Lane and Honorable Members of House Business, Commerce and Labor Committee:

Thank you for the opportunity to appear before you this morning. My name is Doug Smith. I appear on behalf of the Direct Marketing Association (DMA), which serves as a professional trade association for direct marketers, with a memberships of over 4,500 members, worldwide. The DMA has representative members such as IBM, Time Inc., Proctor & Gamble, Microsoft and many others.

DMA appears today in support of House Bill No. 2580, and would like to offer the following amendment.

On page 2 of the bill, DMA would recommend inserting in line 26 the language "or terminate the call" before the period at the end of that sentence.

Subsection (b)(6) would now read: *(6) a live operator or an automated dialing-announcing device shall answer the line within 15 seconds of the beginning of the call or terminate the call.*

In some instances, a consumer may hear what appears to be the beginning of a ring or a partial ring on their telephone. This occurs because a telephone solicitor, using an automatic dialing-announcing device, will have a call automatically disconnected when the dialing system recognizes that the operator, to whom the call would be directed to, is taking too long with a previously connected call. The system will be unable to place the call to an operator and prior to completion of the ring the system will terminate the call and release the telephone line.

Thank you for your consideration.

HOUSE BILL No. 2580

By Representative Johnston

8-5

9 AN ACT concerning consumer protection; relating to automated an-
10 nouncing devices; amending K.S.A. 1999 Supp. 50-670 and repealing
11 the existing section.

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

14 Section 1. K.S.A. 1999 Supp. 50-670 is hereby amended to read as
15 follows: 50-670. (a) As used in this section:

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

23 (2) "unsolicited consumer telephone call" means a consumer tele-
24 phone call other than a call made:

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

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

28 (C) to any person with whom the telephone solicitor or the telephone
29 solicitor's predecessor in interest had an existing business relationship if
30 the solicitor is not an employee, a contract employee or an independent
31 contractor of a provider of telecommunications services; or

32 (D) by a newspaper publisher or such publisher's agent or employee
33 in connection with such publisher's business;

34 (3) "telephone solicitor" means any natural person, firm, organiza-
35 tion, partnership, association or corporation who makes or causes to be
36 made a consumer telephone call, including, but not limited to, calls made
37 by use of automatic dialing-announcing device;

38 (4) "automatic dialing-announcing device" means any user terminal
39 equipment which:

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

4-2

1 (B) when connected to a telephone line can disseminate a recorded
2 message to the telephone number called, either with or without manual
3 assistance;

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

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

9 (1) Identify themselves;

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

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

14 (4) promptly discontinue the solicitation if the person being solicited
15 gives a negative response at any time during the consumer telephone call;
16 and

17 (5) hang up the phone, or in the case of an automatic dialing-an-
18 nouncing device operator, disconnect the automatic dialing-announcing
19 device from the telephone line within 25 seconds of the termination of
20 the call by the person being called; and

21 (6) a live operator or an automated dialing-announcing device shall
22 answer the line within 15 seconds of the beginning of the call.

23 (c) A telephone solicitor shall not withhold the display of the tele-
24 phone solicitor's telephone number from a caller identification service
25 when that number is being used for telemarketing purposes and when
26 the telephone solicitor's service or equipment is capable of allowing the
27 display of such number.

28 (d) A telephone solicitor shall not transmit any written information
29 by facsimile machine or computer to a consumer after the consumer
30 requests orally or in writing that such transmissions cease.

31 (e) A telephone solicitor shall not obtain by use of any professional
32 delivery, courier or other pickup service receipt or possession of a con-
33 sumer's payment unless the goods are delivered with the opportunity to
34 inspect before any payment is collected.

35 (f) Local exchange carriers and telecommunications carriers shall not
36 be responsible for the enforcement of the provisions of this section.

37 (g) Any violation of this section is an unconscionable act or practice
38 under the Kansas consumer protection act.

39 (h) This section shall be part of and supplemental to the Kansas con-
40 sumer protection act.

41 Sec. 2. K.S.A. 1999 Supp. 50-670 is hereby repealed.

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

or terminate the call.



CARLA J. STOVALL
ATTORNEY GENERAL

State of Kansas

Office of the Attorney General
CONSUMER PROTECTION/ANTITRUST DIVISION

301 S.W. 10TH, LOWER LEVEL, TOPEKA 66612-1597
PHONE: (785) 296-3751 FAX: 291-3699 TTY: 291-3767

Testimony of
C. Steven Rarrick, Deputy Attorney General
Consumer Protection Division
Office of Attorney General Carla J. Stovall
Before the House Business, Commerce and Labor Committee
RE: HB 2580
January 26, 2000

CONSUMER HOTLINE
1-800-432-2310

Chairperson Lane and Members of the Committee:

Thank you for the opportunity to appear on behalf of Attorney General Carla J. Stovall today in regard to HB 2580. My name is Steve Rarrick and I am the Deputy Attorney General for Consumer Protection.

As this Committee is aware, HB 2580 addresses the issue of what is commonly referred to as "predictive dialing." While Kansas consumers may not recognize the phrase "predictive dialing," they have had it happen to them. When the telephone rings at home, primarily during the evening hours, and there is no response when you answer, chances are you are the recipient of "predictive dialing" by a telemarketer.

Telemarketing companies use computers to continually dial the numbers of prospective customers while telemarketing representatives pick up other calls that have connected. When a consumer's telephone line is dead, it means there is no telemarketing representative available to handle the call at that time.

The Consumer Protection Division continually receives complaints and/or inquiries as to what this is and how it can be stopped. In addition to the issue of privacy in one's home, Attorney General Stovall is concerned for individuals who may feel threatened by a ringing telephone with no one on the other end. We have heard from consumers who may have been victims of stalkers or abusive spouses who think the telephone calls are meant to harass them. Some consumers have believed a criminal may have been "casing" their home to find out if anyone is there.

Attorney General Stovall is supportive of the concept addressed by Representative Johnston's bill, but would offer two amendments which she believes would further strengthen the bill. First, it is important that the call be answered by either a live operator or a recording so that the consumer knows who is calling them. However, our office would recommend shortening the time to five (5) seconds. Fifteen (15) seconds is an incredibly long time. Try counting to fifteen (15) and then deciding if you would want to wait on the telephone that long for someone to answer.

HOUSE BUSINESS, COMMERCE & LABOR
1-26-00
Attachment 5

House Business, Commerce and Labor Committee
January 26, 2000
Page Two

Secondly, Attorney General would recommend insertion of language specifically requiring an automatic dialing-announcing device to provide the information in (b)(1), (2) and (3) referenced in lines 9 through 13 at page 2 of the bill. This would insure that consumers know who called them and why, alleviating any unnecessary and unwarranted fear or concern.

On behalf of Attorney General Stovall, I urge your favorable consideration of HB 2580 with our proposed balloon amendments. I would be happy to answer questions of the Chair or any member of the Committee.

HOUSE BILL No. 2580

By Representative Johnston

8-5

9 AN ACT concerning consumer protection; relating to automated an-
10 nouncing devices; amending K.S.A. 1999 Supp. 50-670 and repealing
11 the existing section.
12

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

14 Section 1. K.S.A. 1999 Supp. 50-670 is hereby amended to read as
15 follows: 50-670. (a) As used in this section:

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

23 (2) "unsolicited consumer telephone call" means a consumer tele-
24 phone call other than a call made:

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

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

28 (C) to any person with whom the telephone solicitor or the telephone
29 solicitor's predecessor in interest had an existing business relationship if
30 the solicitor is not an employee, a contract employee or an independent
31 contractor of a provider of telecommunications services; or

32 (D) by a newspaper publisher or such publisher's agent or employee
33 in connection with such publisher's business;

34 (3) "telephone solicitor" means any natural person, firm, organiza-
35 tion, partnership, association or corporation who makes or causes to be
36 made a consumer telephone call, including, but not limited to, calls made
37 by use of automatic dialing-announcing device;

38 (4) "automatic dialing-announcing device" means any user terminal
39 equipment which:

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

5-3

5-4

1 (B) when connected to a telephone line can disseminate a recorded
2 message to the telephone number called, either with or without manual
3 assistance;

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

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

9 (1) Identify themselves;

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

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

14 (4) promptly discontinue the solicitation if the person being solicited
15 gives a negative response at any time during the consumer telephone call;
16 and

17 (5) hang up the phone, or in the case of an automatic dialing-an-
18 nouncing device operator, disconnect the automatic dialing-announcing
19 device from the telephone line within 25 seconds of the termination of
20 the call by the person being called; and

21 (6) a live operator or an automated dialing-announcing device shall
22 answer the line within 15 seconds of the beginning of the call;

5

23 (c) A telephone solicitor shall not withhold the display of the tele-
24 phone solicitor's telephone number from a caller identification service
25 when that number is being used for telemarketing purposes and when
26 the telephone solicitor's service or equipment is capable of allowing the
27 display of such number.

*; if answered by an automatic dialing-announcing device, the information
required by subparagraphs (1), (2) and (3) must be provided.*

28 (d) A telephone solicitor shall not transmit any written information
29 by facsimile machine or computer to a consumer after the consumer
30 requests orally or in writing that such transmissions cease.

31 (e) A telephone solicitor shall not obtain by use of any professional
32 delivery, courier or other pickup service receipt or possession of a con-
33 sumer's payment unless the goods are delivered with the opportunity to
34 inspect before any payment is collected.

35 (f) Local exchange carriers and telecommunications carriers shall not
36 be responsible for the enforcement of the provisions of this section.

37 (g) Any violation of this section is an unconscionable act or practice
38 under the Kansas consumer protection act.

39 (h) This section shall be part of and supplemental to the Kansas con-
40 sumer protection act.

41 Sec. 2. K.S.A. 1999 Supp. 50-670 is hereby repealed.

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