

Approved: March 9, 2000
Date

MINUTES OF THE SENATE COMMERCE COMMITTEE.

The meeting was called to order by Chairperson Alicia Salisbury at 8:00 a.m. on March 8, 2000 in Room 123-S of the Capitol.

All members were present except:

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

Conferees appearing before the committee:

Representative Douglas Johnston
C. H. "Sonny" Freeman, AARP
Steve Rarrick, Deputy Attorney General
Doug Smith, Direct Marketing Association
Mike Murray, Sprint

Others attending: See attached list

HB 2580 - Telephone Solicitations; automated dialing machines

Representative Douglas Johnston testified **HB 2580** was introduced to address the fear among citizens of south-central Kansas who receive phone calls where the phone rings, but when answered, no one replies. People have become concerned. Some have feared the calls were from stalkers or ex-spouses, or that someone was casing their home for a potential burglary. The calls, in actuality, are the result of telemarketers who use automatic dialing phone systems. Telemarketers use computerized phone systems, dialing dozens or perhaps hundreds of lines at one time, but have live operators available to handle only a portion of the calls. A large number of calls are made into homes with no live operators, there is no one on the line when the phone is answered. (Attachment 1)

HB 2580 attempts to rectify and to calm the concerns of the public by requiring companies doing telemarketing in Kansas to have a live operator or a recorded voice answer each line they call. The original language required the live operator or recorded voice to answer within 15 seconds. The 15 seconds was reduced to 5 seconds in the House Committee at the request of the telephone industry and a consensus that 15 seconds was an exceedingly long time. Representative Johnston stated he has been informed by the Attorney General's Office that there is a federal law that prohibits calls made by automated voice or recorded voice devices. He believes there is a need for this legislation and recommends that the language "or recorded voice" be stricken.

Senator Ranson asked whether federal presently prohibits computer dialing. Representative Johnston responded the federal law does not address the specific issue contained in **HB 2580** which limits the time an automatic dialing announcing device must be answered by a live voice.

C. H. "Sonny" Freeman, AARP, testified in support of telemarketing legislation. Mr. Freeman related an incident in which he was charged for a privacy guard on his credit card even though he had told the telephone solicitor he was not interested in the service. He is in favor of legislation that protects individuals from unsolicited and harassing telephone calls.

Steve Rarrick, Deputy Attorney General, Consumer Protection Division, testified that **HB 2580** addresses a telemarketing industry practice called "predictive dialing", which occurs when telemarketing companies use computers to continually dial numbers of prospective customers beyond the capability of available representatives to handle each call connected. When a consumer's telephone line rings but the line is dead when answered, it means there is no telemarketing representative available to handle the call. The Attorney General supports the concept of this legislation as the Consumer Protection Division

CONTINUATION SHEET

receives numerous complaints and inquiries as to how the calls can be stopped. **HB 2580 as amended by House Committee** will not eliminate the practice of “predictive dialing”. The “ability” language used in the amendment makes the law apply to a telemarketer only “when the telephone solicitor’s service or equipment is able to provide a live operator or an automated dialing announcing device within five seconds of the beginning of the call.” The “ability” language renders the requirement unenforceable, and will allow telemarketers to continue this practice unabated. **HB 2580** as drafted will have no effect on the predictive dialing practice. (Attachment 2)

Mr. Rarrick testified the federal Telephone Consumer Protection Act (TCPA) prohibits residential telephone calls using an artificial or prerecorded voice to solicit the sale of property or services. The TCPA does not preempt state laws that are more restrictive than the TCPA; however, specifically requiring a recorded message is in direct conflict with the TCPA prohibition against recorded messages, and would, therefore, be preempted. Mr. Rarrick proposed an amendment to **HB 2580**, at Page 2, on Line 22, to strike the words “~~or an automatic dialing announcing device~~”, on Lines 24-27 to strike the following: ~~when the telephone solicitor’s service or equipment is able to provide a live operator or an automated dialing announcing device within five seconds of the beginning of the call.~~”, and to delete the “ability” language.

Mike Murray, Sprint, testified that the amendment to **HB 2580** submitted by Sprint and other industry representatives was a compromise based on the contention of telemarketers that when an automated dialing announcing device simply identifies the solicitor within 5 seconds and does not deliver a message, the telemarketer is not in violation of the federal law.

Doug Smith, Direct Market Association, submitted written testimony in support of **HB 2580 as Amended by House Committee**. (Attachment 3)

Senator Barone submitted a proposed amendment to **HB 2580** which would incorporate portions of **SB 539** and 1) require a telephone solicitor 90 days from receipt of updated Direct Marketing Association (DMA) Telephone Preference Service (TPS) List to cease telemarketing to a phone number placed on that list during the preceding quarter, after which time the solicitor is in violation; 2) require the telephone solicitor to implement procedures to use the DMA TPS list to remove consumers in the state from calling lists consistent with approved methods and FCC requirements for an internal company-specific do not call list; 3) provide the Attorney General with the ability to request the telephone solicitor to certify its compliance with the procedures and training required in this legislation; 4) authorize the Attorney General to investigate any telephone solicitor for which it receives multiple complaints from consumers. Multiple complaints against one telephone solicitor would be more than one per quarter and justify an investigation by the Attorney General. 5) Exempt businesses with 50 employees or less; 6) direct the Kansas Corporation Commission to establish a task force to study and develop recommendations regarding unsolicited consumer telephone calls, establish guidelines to educate consumers on existing remedies to curb unwanted telephone solicitations, and to make its report to the House Utilities Committee and Senate Commerce Committee during the first week of the 2001 legislative session. (Attachment 4)

The Committee discussed whether proposed legislation is duplicating federal law or whether it is more prudent to direct the Kansas Corporation Commission to establish a task force to make recommendations regarding unsolicited consumer calls and to direct the telephone industry to make a greater effort to educate the public as to remedies that presently are in place.

Senator Ranson moved, seconded by Senator Brownlee that HB 2580 be amended by directing the Kansas Corporation Commission to adopt rules and regulations reflected in (Attachment 5).

Senator Barone made a substitute motion, seconded by Senator Feleciano to amend HB 2580 with the provisions contained in (Attachment 4).

Time expired for additional committee discussion or action. The Chair informed the Committee the motion would be scheduled for further deliberations the first of next week and requested that any proposed amendments and comments be turned in to the Senate Commerce Committee office prior to that

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date.

The Committee adjourned at 9:00 a.m.

The next meeting is scheduled for March 9, 2000.

SENATE COMMERCE COMMITTEE GUEST LIST

DATE: March 8, 2000

NAME	REPRESENTING
Dick Laverentz	AARP
Melanie Lawrence	Intern - Carl Holmes
Charles A. "Seany" Freeman	AARP
Vaughan Johnston	State Rep. District 92
Debbie Vignatelli	SW Bell
Barb Schmedtlein	SW Bell
D.S. Koch	"
Bill Sneed	SW Bell
TOM DAY	KCC
MIKE REECHT	AT&T
Mike Murray	Sprint
Jana Cunningham	Intern - Sen. Jim Malone
Tim Yonally	Cellular One
George Barbee	RTNC
Roger Truitt	KCC
STEVE LARRICK	ATTORNEY GENERAL
GAIL BRIGHT	" "
Erik Sartorius	Johnson Co. Board of Realtors
Nathaniel Amron	SWB

SENATE COMMERCE COMMITTEE GUEST LIST

DATE: 3/8/00

NAME	REPRESENTING
Steve Montgomery	MCI Worldcom
Jim Janousek	KDOCT
BUD BURKE	ISSUES MANAGEMENT GROUP, INC.
Evan Kim	Wk. Fin.

DOUGLAS JOHNSTON

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State of Kansas



TOPEKA

COMMITTEE ASSIGNMENTS

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

House of Representatives

TESTIMONY IN FAVOR OF HOUSE BILL 2580 SENATE COMMERCE COMMITTEE

MARCH 8, 2000

REP. DOUGLAS JOHNSTON

Thank you for this opportunity to testify in favor of legislation regarding telemarketing.

House bill 2580 was introduced 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. You are 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 that only the first people to answer their phones are spoken to by operators. The rest of us get nothing—not even a person or recorded message that would allow us to tell them to take our name and phone number off their mailing 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 ex-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 was home alone... Now that she knows it is just telemarketers she is upset.

It is important to note that if you 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.

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 within 5 seconds. The amendment language to the bill was agreed to by Sprint and some of the other original opponents of the bill.

I would like to suggest for your consideration that you support this bill and seriously consider a small, but significant amendment that was not considered by the House. It has come to my attention only very recently that part of the language of the bill is somewhat in conflict with federal statutes. The Attorney General's office representative will address in more detail, but the peanut is that federal law prohibits calls made by automated voice or recorded voices. This would seem to be in conflict with the language in HB 2580 regarding "a live operator or recorded voice." I suggest the committee seriously consider removing the language "or recorded voice."

Senate Commerce Committee

Date: 3-08-00

Thank you for your time and attention to this matter.

Attachment # 1



CARLA J. STOVALL
ATTORNEY GENERAL

State of Kansas

Office of the Attorney General

CONSUMER PROTECTION/ANTITRUST DIVISION

120 S.W. 10TH AVENUE, 2ND FLOOR, TOPEKA, KANSAS 66612-1597
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CONSUMER HOTLINE
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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: HB 2580
March 8, 2000

Chairperson Salisbury 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.

HB 2580 addresses a telemarketing industry practice called "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.

Predictive dialing occurs when telemarketing companies use computers to continually dial the numbers of prospective customers beyond the capability of available representatives to handle each call connected. When a consumer's telephone line rings but the line is dead when answered, 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 HB 2580. Unfortunately, HB 2580, with the amendment added at page 2, lines 23-27, will not eliminate this practice. The "ability" language used in the amendment makes the law apply to a telemarketer only "when the telephone solicitor's service or equipment is able to provide a live operator or an automated dialing-announcing device within five seconds of the beginning of the call." This "ability" language renders the requirement unenforceable, and will allow telemarketers to continue this practice unabated. As a result, we do not believe HB 2580 as drafted will have any effect on the current practice of

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predictive dialing. We would recommend deleting this language from the bill if it is to have any effect at all.

In addition, our research on the amendment requiring a recorded message indicates the current version of the bill conflicts with the provisions of the federal Telephone Consumer Protection Act (TCPA), and is therefore preempted by the TCPA. The TCPA was enacted in 1991, shortly after the passage of the provisions of K.S.A. 50-670. The TCPA, and the regulations promulgated under its authority, prohibit residential telephone calls using an artificial or prerecorded voice to solicit the sale of property or services. The law exempts calls or messages to any person who has given prior express invitation or permission, calls to any person with whom the caller has an established business relationship, and calls by a tax exempt nonprofit organization.

The TCPA does not preempt State laws that are more restrictive than the TCPA. However, specifically requiring a recorded message is in direct conflict with the TCPA prohibition against recorded messages, and would therefore be preempted.

Unfortunately, in light of the TCPA prohibitions against recorded messages, we are unable to make any suggestion on how to stop this practice other than to delete the automated dialing-announcing device language at page 2, line 22, which would effectively require a live person within five seconds of the beginning of the call.

On behalf of Attorney General Stovall, I urge you to delete the "ability" language contained in the amendment at page 2, lines 24-27, and the automated dialing-announcing device language at page 2, line 22, before passing this bill out favorably. I would be happy to answer questions of the Chair or any member of the Committee.

2-3

As Amended by House Committee

Session of 2000

HOUSE BILL No. 2580

By Representative Johnston

8-5

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

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

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

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

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

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

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

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

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

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

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

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

quential number generator; or

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

(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.

(b) Any telephone solicitor who makes an unsolicited consumer telephone call to a residential telephone number shall:

(1) Identify themselves;

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

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

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

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

(6) a live operator or an automated dialing-announcing device shall answer the line within ~~15 seconds of the beginning of the call. five seconds of the beginning of the call~~ **When the telephone solicitor's service or equipment is able to provide a live operator or an automated dialing-announcing device within five seconds of the beginning of the call.**

~~or an automated dialing-announcing device~~

~~when the telephone solicitor's service or equipment is able to provide a live operator or an automated dialing-announcing device within five seconds of the beginning of the call~~

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

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

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

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

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

- 1 (h) This section shall be part of and supplemental to the Kansas con-
- 2 sumer protection act.
- 3 Sec. 2. K.S.A. 1999 Supp. 50-670 is hereby repealed.
- 4 Sec. 3. This act shall take effect and be in force from and after its
- 5 publication in the statute book.

Direct Marketing Association

TESTIMONY
SENATE COMMERCE COMMITTEE
HOUSE BILL NO. 2580
March 8, 2000

Dear Senator Salisbury and Honorable Members of the Senate Commerce 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.

The DMA appears today in support of House Bill No. 2580, as amended by the House Committee.

Many telemarketers use telephone equipment known as an "automatic telephone dialing system" or "predictive dialer". As defined by federal law these systems have the capacity to store or produce telephone numbers to be called, using a random or sequential number generators and have the ability to dial such numbers. This equipment is a great time saver for the industry, making for a very efficient business practice.

Typically, this telephone system routes a pre-dialed call to an operator for completion. When the system is unable to direct the call to an operator it will terminate the connection. Generally, the dialing system will realize that an operator will not be available early in the call and surrenders the line.

However, on some telephone networks it may take up to 25 seconds for the telephone network signal to indicate the call has been terminated. In the areas where this occurs the consumer is going to have their telephone ring even though the call has already been disconnected.

The DMA supports the amendment made in the House Committee to require a live operator or announcing device to answer the line within 5 seconds when the dialing system is capable.

We know that there are older dialing systems in use that do not have this type capability. The language in House Bill No 2580 will not require companies to immediately purchase new equipment, but as companies upgrade their systems they will have the capability to meet the technology requirement.

There was also discussion in the House Committee about requiring every telephone call to have a recorded announcement answer the line, when a live operator is not available. We are concerned that the recorded announcement portion may conflict with federal law. The Telephone Consumer Protection Act prohibits a "telephone call to any residential telephone line using an artificial or prerecorded voice to deliver a message without the

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Attachment # 3-1 thru 3-2

prior express consent of the called party, unless the call is initiated for emergency purposes or is exempted by rule or order by the Federal Communications Commission”.

We already know that a live operator cannot complete all of the calls made everyday. Based on the above federal prohibitions, would creating this announcement requirement under Kansas Consumer Protection Act put telemarketers at risk of violating the Federal Act while complying with State law?

We believe this type of amendment changes the intent of the telemarketer’s call, and may bring the Federal Act into play.

We ask that you consider the potential ramifications before adopting any amendments requiring automatic announcements.

Thank you for the opportunity to appear today.

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Session of 2000
SENATE BILL No. 539

By Senators Salisbury and Barone

2-1

AN ACT relating to consumer protection; concerning unsolicited consumer telephone calls.

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

Section 1. (a) Prior to doing business in this state and annually thereafter, a telephone solicitor shall consult the telephone preference service maintained by the direct marketing association, a national trade association consisting of firms engaged in all forms of direct marketing including direct mail, catalog sales, electronic mail and telephone solicitation, and delete from such telephone solicitor's list of consumers all state residents who have registered with such service. The direct marketing association may be reached by mail, phone, fax or e-mail through the following: Direct Marketing Association Headquarters, 1120 Avenue of the Americas, New York, NY 10036-6700, Telephone: (212) 768-7277, Fax: (212) 719-1946, e-mail: webmaster@the-dma.org.

(b) No telephone solicitor may make or cause to be made any unsolicited consumer telephone call to any consumer if the consumer's name and telephone number or numbers appear in the then current list of consumers registered with the telephone preference service maintained by the direct marketing association.

(c) any person who obtains the name, residential address or telephone number of any consumer from published telephone directories or from any other source and republishes or compiles such information, electronically or otherwise, and sells or offers to sell such publication or compilation to telephone solicitors for marketing or sales solicitation purposes, shall exclude from any such publication or compilation, and from the database used to prepare such publication or compilation, the name, address and telephone number or numbers of any consumer if the consumer's name and telephone number or numbers appear in the then current list of consumers registered with the telephone preference service maintained by the direct marketing association.

(d) a telephone solicitor will have ninety (90) days from the date of receipt of the most current updated Direct Marketing Association Telephone Preference Service List to cease telemarketing to a phone number placed on that list during the preceding quarter.

(e) Thereafter, any subsequent violation shall be subject to the provisions of this act. A telephone solicitor will not be in violation of the provisions of this Act if:

(1) the telephone solicitor has implemented procedures to use the Direct Marketing Association Telephone Preference Service List to remove consumers in the State from calling lists consistent with the Direct Marketing Association's approved methods, and has complied with the Federal Communications Commission (FCC) requirement for an internal company-specific do not call list;

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1 (2) the telephone solicitor has trained its personnel in the
2 procedures established for the use of the Direct Marketing
3 Association's Telephone Preference Service List and for the use of the
4 FCC-required internal company-specific do not call list;

5 (3) the telephone solicitor has continuously used the Direct
6 Marketing Association's Telephone Preference Service List and the
7 FCC-required internal company-specific do not call list to remove
8 consumers in the State;

9 (4) upon the request of the Attorney General, the telephone
10 solicitor shall certify that the telephone solicitor has adhered to the
11 procedures, training, and use referred in this Section, and

12 (5) Any subsequent call is the result of error.

13 (f) The Attorney General shall investigate any telephone solicitor
14 for which it receives multiple complaints from consumers. Multiple
15 complaints against one telephone solicitor (or its subsidiaries) in one
16 quarter will justify an investigation by the Attorney General to
17 determine if the telephone solicitor is in compliance with established
18 procedures. One complaint per quarter against one telephone solicitor
19 will be considered to have been the result of inadvertent error.

20 (g) The provisions of this act shall not apply to firms with 50
21 employees or less that are domiciled within the state of Kansas.

22 (h) This section shall be a part of and supplemental to the Kansas
23 consumer protection act. Violations of this act may be punishable by
24 finest of not exceeding \$5,000 per violation and such other penalties as
25 are provided in K.S.A. 50-636 and amendments thereto. The
26 enforcement of the violation of this act shall commence July 1, 2001.

27 Sec. 2. The Kansas Corporation shall establish a task force to:

28 (1) study and develop recommendations to address consumer
29 concerns regarding unsolicited consumer telephone calls;

30 (2) establish guidelines to educate consumers on existing remedies to
31 curb unwanted telephone solicitations, specifically providing
32 information on the Kansas Consumer Protection Act, Telephone
33 Consumer Protection Act, Telephone Consumer Fraud and Abuse
34 Prevention Act and the Direct Marketing Association's Telephone
35 Preference Service; and

36 (3) address any other related matters concerning unsolicited telephone
37 calls. On or before the first day of the 2001 legislative session the
38 Kansas Corporation Commission shall adopt rules and regulations to
39 implement the recommendations of the task force.

40 The Kansas Corporation Commission shall submit a report, including
41 the task force recommendations, to the House Committee on Utilities
42 and Senate Committee on Commerce during the first week of the 2001
43 legislative session.

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

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(a) No later than July 1, 2001, the commission shall adopt rules and regulations that:

(1) Require each local exchange carrier and each telecommunications carrier to inform its residential subscribers about the availability of the Telephone Preference Service maintained by the Direct Marketing Association at no cost to such subscribers.

(2) Require the information provided to residential subscribers in (a)(1) to specify, at a minimum, the following: the method of registering with the Telephone Preference Service; the frequency with which the data base maintained by the Telephone Preference Service is updated; the types of calls registered subscribers should still expect to receive; the measures subscribers must take to register if they move or receive a new telephone number; the duration for registration and the procedures for registration renewals; and the remedies available to registered subscribers if they receive unsolicited consumer telephone calls pursuant to KSA 1999 Supp. 50-670.

(3) Specify a method or methods to inform all telephone solicitors in Kansas of: the requirements for membership in the Direct Marketing Association; charges for members and non-members of the Direct Marketing Association to access the data base of the Telephone Preference Service; and options available to telephone solicitors for accessing Kansas-specific portions of the data base.

(4) Require all local exchange carriers and telecommunications carriers to collectively develop a method or methods for annually notifying residential subscribers of their rights and remedies available to them in the Kansas Consumer Protection Act, the Telephone Consumer Protection Act, Telemarketing and Consumer Fraud and Abuse Prevention Act, and the Direct Marketing Association's Telephone Preference Service.

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Attachment # 5