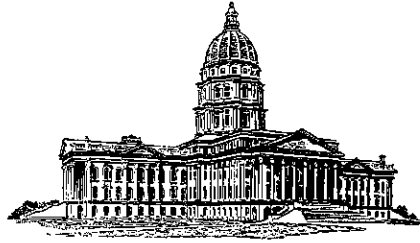


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GREG SMITH

Chairman Holmes, Vice Chairman Fitzgerald, Ranking Minority Faust-Goudeau, and members of the Senate Ethics and Elections Committee:

Thank you for allowing me to testify in favor of HB 2558. I am aware of several cities that claim to have difficulty in interpreting case law concerning door-to-door political canvassing. This ambiguity has resulted in city ordinances that are; most likely, unconstitutional given federal case law. HB 2558 makes it clear that first amendment speech – in this case political speech – should not be subject to the whims of a city government.

Some would argue that a homeowner or tenant has the right to decide if they want to listen to political speech. I don't disagree. However, banning someone from even approaching a door under a catch all "canvassing or peddling" ordinance is not nuanced enough to differentiate both the canvasser's right to free speech and the homeowner or tenant's right to not listen to that speech and the issue of a door to door salesman.

Courts have long held that door to door peddling may be regulated. The expression of political or religious ideas, even on the doorstep of a person's home, falls into a different category – that of first amendment protected speech.

HB 2558 places no burden on a homeowner or tenant – short of answering the door. In today's world, many people don't answer the door if they don't know the person standing outside of it. Nothing changes with the passage of HB 2558. Obviously, a homeowner or tenant could choose to answer the door, hear the message, and ask the canvasser to leave. They could also refuse to accept any literature. If no one is home, and literature is left on the door, the citizen homeowner or tenant can either read the material or throw it away. All of these options allow the homeowner or tenant the ability to hear or not hear the message.

What is not acceptable is that the government – by enacting an ordinance or law – could prohibit a person from even approaching a house thus denying the canvasser his or her right to free speech and take the citizen homeowner or tenant out of the equation. In effect, it denies the citizen homeowner or tenant the right to accept or reject the canvasser's message. Imagine the outrage that would occur if a government refused to allow its citizens access to the ballot. These ordinances have the same chilling effect.

COMMITTEE ASSIGNMENTS

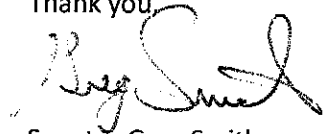
VICE-CHAIR: JUDICIARY; MEMBER: ETHICS, ELECTIONS & LOCAL GOVERNMENT; NATURAL RESOURCES AND UTILITIES

Conversations I have had with one local government have indicated that political canvassing; even leaving a flyer on the door of a residence could be considered an offense – punishable by a fine of \$2500 and/or 1 year in jail. I find this government intrusion on free speech to be disturbing.

HB 2558 provides clear instruction on what is a free speech issue rather than that of a door to door peddler. In fact, SB 426 brought by the Kansas Attorney General's Office deals with restrictions on those selling door to door. Political canvassing is not covered under the regulation outline in SB 426.

I would ask that the committee recommend HB 2558 favorable for passage.

Thank you

A handwritten signature in black ink, appearing to read "Greg Smith", written over a dotted line.

Senator Greg Smith
Chairman, Senate Corrections & Juvenile Justice
Vice Chairman, Senate Judiciary