

HOUSE BILL No. 2521

By Representative Swanson

1-23

1 AN ACT concerning consumer protection; relating to the Kansas no-call
2 act; restricting use of automatic dialing-announcing devices; amending
3 K.S.A. 2017 Supp. 50-670 and repealing the existing section.
4

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

6 Section 1. K.S.A. 2017 Supp. 50-670 is hereby amended to read as
7 follows: 50-670. (a) As used in this section and K.S.A. 50-670a, and
8 amendments thereto:

9 (1) "Consumer telephone call" means a call made by a telephone
10 solicitor to the residence or mobile telephone number of a consumer for
11 the purpose of soliciting a sale of any property or services to the person
12 called, or for the purpose of soliciting an extension of credit for property
13 or services to the person called, or for the purpose of obtaining information
14 that will or may be used for the direct solicitation of a sale of property or
15 services to the person called or an extension of credit for such purposes.

16 (2) "Mobile telephone number" means a telephone number associated
17 with a wireless telecommunications service as defined in K.S.A. 2017
18 Supp. 12-5363, and amendments thereto.

19 (3) "Unsolicited consumer telephone call" means a consumer
20 telephone call other than a call made:

21 (A) In response to an express request or with the express written
22 agreement of the person called;

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

26 (C) to any person with whom the telephone solicitor or the telephone
27 solicitor's predecessor in interest has an established business relationship,
28 unless the consumer has objected to such consumer telephone calls and
29 requested that the telephone solicitor cease making consumer telephone
30 calls. The telephone solicitor shall honor any such request for five years
31 from the date of such request.

32 (4) "Telephone solicitor" means any natural person, firm,
33 organization, partnership, association or corporation who makes or causes
34 to be made a consumer telephone call, including, but not limited to, calls
35 made by use of automatic dialing-announcing device.

36 (5) "Automatic dialing-announcing device" means any user terminal

1 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
4 programmed in the device or are produced or selected by a random or
5 sequential 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 (6) "Negative response" means a statement from a consumer
10 indicating the consumer does not wish to listen to the sales presentation or
11 participate in the solicitation presented in the consumer telephone call.

12 (7) "Established business relationship" means a prior or existing
13 relationship formed by a voluntary two-way communication between a
14 person or entity and consumer with or without an exchange of
15 consideration, on a basis of an application, purchase or transaction by the
16 consumer, within the 18 months immediately preceding the date of the
17 consumer telephone call, regarding products or services offered by such
18 person or entity, which relationship has not been previously terminated by
19 either party.

20 (b) Any telephone solicitor who makes an unsolicited consumer
21 telephone call shall:

22 (1) Identify themselves;

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

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

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

29 (5) hang up the phone, or in the case of an automatic dialing-
30 announcing device operator, disconnect the automatic dialing-announcing
31 device from the telephone line within ~~25~~ 10 seconds of the termination of
32 the call by the person being called; ~~and~~

33 (6) *not use an automatic dialing-announcing device unless: (A) The*
34 *person being solicited has knowingly or voluntarily requested, consented*
35 *to, permitted or authorized receipt of the message; or (B) the message is*
36 *immediately preceded by a live operator who obtains the person's consent*
37 *before the message is delivered;*

38 (7) *not use an automatic dialing-announcing device such that the*
39 *person being solicited receives a telephone call before 9 a.m. or after 8*
40 *p.m.;*

41 (8) *not use an automatic dialing-announcing device to make a*
42 *telephone call to any of the following:*

43 (A) *A hospital, as defined in K.S.A. 65-425, and amendments thereto;*

1 (B) *an ambulatory surgical center, as defined in K.S.A. 65-425, and*
2 *amendments thereto;*

3 (C) *a recuperation center, as defined in K.S.A. 65-425, and*
4 *amendments thereto;*

5 (D) *an ambulance service, as defined in K.S.A. 65-6112, and*
6 *amendments thereto;*

7 (E) *an emergency medical service facility, as defined in K.S.A. 65-*
8 *6112, and amendments thereto;*

9 (F) *a mental health center, as defined in K.S.A. 65-4432, and*
10 *amendments thereto;*

11 (G) *a psychiatric hospital, as defined in K.S.A. 65-5601, and*
12 *amendments thereto;*

13 (H) *a state institution for people with intellectual disability, as*
14 *defined in K.S.A. 65-5601, and amendments thereto;*

15 (I) *a law enforcement agency; or*

16 (J) *a city, county, township or other public or private fire department;*
17 *and*

18 (9) *ensure* a live operator or an automated dialing-announcing device
19 shall answer the line within five seconds of the beginning of the call. If
20 answered by automated dialing-announcing device, the message provided
21 shall include only the information required in subsection (b)(1) and (2),
22 but shall not contain any unsolicited advertisement.

23 (c) A telephone solicitor shall not withhold the display of the
24 telephone solicitor's telephone number from a caller identification service
25 when that number is being used for telemarketing purposes.

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

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

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

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

37 (h) This section shall be part of and supplemental to the Kansas
38 consumer protection act.

39 Sec. 2. K.S.A. 2017 Supp. 50-670 is hereby repealed.

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