HOUSE BILL No. 2024

By Representative Highberger

AN ACT concerning consumer protection; relating to the Kansas no-call act; restricting the use of automatic dialing-announcing devices and the use of false information in a telephone caller identification system; amending K.S.A. 2018 Supp. 50-670 and repealing the existing section.

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

Section 1. K.S.A. 2018 Supp. 50-670 is hereby amended to read as follows: 50-670. (a) As used in this section and K.S.A. 50-670a, and amendments thereto:

(1) "Consumer telephone call communication" means a call or text message made by a telephone solicitor to the residence or mobile telephone number of a consumer for the purpose of:

(A) Soliciting a sale of any property or services to the person called, or for the purpose of;

(B) soliciting an extension of credit for property or services to the person called, or for the purpose of;

(C) obtaining information that will or may be used for the direct solicitation of a sale of property or services to the person called, or an extension of credit for such purposes.

(2) "Mobile telephone number" means a telephone number associated with a wireless telecommunications service as defined in K.S.A. 2018 Supp. 12-5363, and amendments thereto.

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

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

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

(C) to any person with whom the telephone solicitor or the telephone solicitor's predecessor in interest has an established business relationship, unless the consumer has objected to such consumer telephone calls communications and requested that the telephone solicitor cease making consumer telephone calls communications. The telephone solicitor shall honor any such request for five years from the date of such request.
(4) "Telephone solicitor" means any natural person, firm, organization, partnership, association or corporation who makes or causes to be made a consumer telephone call communication, including, but not limited to, calls communications made by use of telephone calls, text messages and calls that utilize an automatic dialing-announcing device.

(5) "Automatic dialing-announcing device" means any user terminal equipment which that facilitates the transmission of two-way voice or data messages and can:

(A) When connected to a telephone line can Dial, with or without manual assistance, telephone numbers which that have been stored or programmed in the device or are produced or selected by a random or sequential 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.

(6) "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 communication.

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

(b) (1) Any telephone solicitor who that makes an unsolicited consumer telephone communication by making a telephone call shall:

(1)(A) Identify themselves;

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

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

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

(5)(E) 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 consumer being called; and.

(2) Any telephone solicitor that makes an unsolicited consumer
telephone communication by sending a text message shall:

(A) Identify themselves;

(B) identify the business on whose behalf such telephone solicitor is soliciting;

(C) identify the purpose of the communication immediately upon making contact by text message with the consumer who is the object of the solicitation; and

(D) promptly discontinue the solicitation if the consumer being solicited gives a negative response at any time after receiving the consumer telephone communication.

(e)(c) A telephone solicitor shall not use an automatic dialing-announcing device:

(1) Unless:

(A) The person being solicited has knowingly or voluntarily requested, consented to, permitted or authorized receipt of the consumer telephone communication or the communication is immediately preceded by a live operator who obtains the person's consent before the communication is delivered;

(B) the solicitor has ensured that a live operator or an automated dialing-announcing device shall answer the line within five seconds of the beginning of the call. If answered by automated dialing-announcing device, the message provided shall include only the information required in subsection (b)(1) and (2) the identity of the solicitor and the business on whose behalf such person is soliciting, but shall not contain any unsolicited advertisement;

(2) in a manner that the consumer being solicited receives a consumer telephone communication before 9 a.m. or after 8 p.m.; and

(3) to make a communication to any of the following:

(A) A hospital, an ambulatory surgical center or a recuperation center, as those terms are defined in K.S.A. 65-425, and amendments thereto;

(B) an ambulance service or an emergency medical service facility, as those terms are defined in K.S.A. 65-6112, and amendments thereto;

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

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

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

(F) a law enforcement agency; or

(G) a city, county, township or other public or private fire department.

(e)(d) A telephone solicitor shall not:
(1) Enter or cause to be entered false information into a telephone caller identification system with the intent to defraud, cause harm or wrongfully obtain anything of value from the recipient of a communication;

(2) make a consumer telephone communication knowing that false information was entered into the telephone caller identification system with the intent to defraud, cause harm or wrongfully obtain anything of value from the recipient of a communication; and

(3) withhold the display of the telephone solicitor's telephone number from a caller identification service when that number is being used for telemarketing purposes.

(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.

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

Sec. 2. K.S.A. 2018 Supp. 50-670 is hereby repealed.

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