

## HOUSE BILL No. 2150

By Committee on Commerce and Economic Development

2-4

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1 AN ACT concerning consumer protection; relating to automatic renewals  
2 of business services; amending K.S.A. 50-617 and repealing the  
3 existing section.  
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5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 50-617 is hereby amended to read as follows: 50-  
7 617. (a) Whenever any supplier shall, in any manner, or by any means,  
8 deliver property or *continue services or automatically renew a contract*  
9 *for goods or services* not affirmatively ordered or requested by the  
10 recipient, the receipt of any such unordered property or services shall for  
11 all purposes be deemed an unconditional gift to the recipient who may  
12 use or dispose of the same in any manner the recipient sees fit without  
13 any obligation on the recipient's part to the supplier. Property or services  
14 *provided by a business* are considered to be unordered unless the recipient  
15 specifically requested, in an affirmative manner, the receipt of the  
16 property or services according to the terms under which they are being  
17 offered. Property or services are not considered to have been  
18 affirmatively ordered or requested if a person fails to respond to a  
19 negative option invitation or announcement to purchase the property or  
20 services, *or by an automatic renewal of a business's good or services*, and  
21 the property or services are provided notwithstanding. In any action for  
22 the return of such property or for payment of the purchase price of such  
23 property or services or any other consideration, it shall be a complete  
24 defense that the property or services were delivered *or provided* to the  
25 recipient voluntarily and that the recipient did not affirmatively order or  
26 request the same.

27 (b) As used in this section, "negative option invitation or  
28 announcement" means any material sent by a supplier which identifies  
29 property or services which such supplier proposes to send or sends to  
30 recipients, and the recipients are thereafter billed for the property or  
31 services identified in the material, unless by a date or within a time  
32 specified by the supplier, the recipients, in conformity with the supplier's  
33 terms set forth in the material, instruct the supplier not to send the  
34 identified property or services.

35 (c) Any attempt to collect or bill for unordered property or services  
36 under this section is a deceptive act or practice under the Kansas

1 consumer protection act.

2 (d) The provisions of this act do not apply to plans and arrangements  
3 regulated by and in compliance with 16 C.F.R. 425 or ~~to contractual plans~~  
4 ~~or arrangements such as continuity plans, subscription arrangements,~~  
5 ~~standing order arrangements and series arrangements under which~~  
6 ~~the~~ *where a* supplier periodically ships property *or provides services* to a  
7 consumer who has affirmatively ordered or requested in advance to  
8 receive such property *or services* on a periodic basis.

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

11 Sec. 2. K.S.A. 50-617 is hereby repealed.

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

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