

## **TESTIMONY ON HB 2273**

### **Before the Committee on Federal and State Affairs of the Kansas House of Representatives**

March 8, 2017

Rep. Dennis “Boog” Highberger  
46<sup>th</sup> District, Lawrence

Chairman Barker and Members of the Committee,

Thank you for the opportunity to testify as a proponent of HB 2273. I asked for this bill to be introduced after some of my constituents contacted me about the annoying number of automated (“robocalls”) phone calls they have been receiving, and a review of existing Kansas statutes showed no remedy under our current “no-call” statute or other state law.

I was sympathetic to their concerns, and I suspect that you may be as well, because I have a landline for my home office and I get a large number of these calls myself. Fortunately, I have caller ID on that line with an audio feature, so I am able to screen most of them out, because at certain times of the morning and evening, all the calls are from my old pal “Toll Free Call” or my good friend “Anonymous” or my colleague “None.”

The bill before you amends the Kansas No-Call Act (K.S.A. 50-670 and 50-670a) by prohibiting consumer robocalls unless those calls are made with the prior consent of the recipient or unless the call is introduced by a live operator who obtains the recipient’s consent. The bill would further ban consumer robocalls entirely between the hours of 8 pm and 9 am. The provisions of the bill would be enforced by the Office of the Attorney General in the same manner as the rest of the No-Call Act.

The provisions of this bill are based on a 1988 Indiana statute<sup>1</sup>. In a recent decision<sup>2</sup> the federal 7<sup>th</sup> Circuit Court found that the statute did not violate the 1<sup>st</sup> Amendment to the US

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<sup>1</sup> Ind. Code § 24-5-14-1 through 13.

<sup>2</sup> Patriotic Veterans, Inc. v. Zoller, No. 16-2059, 2017 U.S.App. LEXIS 47 (Jan. 3, 2017)

Constitution, and in an earlier decision in the same case it found that the law was not preempted by the federal Telephone Consumer Protection Act (TCPA)<sup>3</sup>. In upholding the law, the court stated that “[n]o one can deny the legitimacy” of Indiana’s goal of “[p]reventing the phone (at home or in one’s pocket) from frequently ringing with unwanted calls.”

It is my understanding that the Attorney General’s office does not oppose this extension of the Kansas No-Call Act and is willing to enforce it.

I would happy to do my best to answer to any questions you have.

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<sup>3</sup> 47 U.S.C. § 227