

HOUSE BILL No. 2004

By Representative Rhiley

12-27

1 AN ACT concerning consumer protection; relating to the Kansas no-call
2 act; prohibiting conveyances of telephone numbers to out-of-state
3 entities; prohibiting the transmission of inaccurate caller-ID
4 information for financial gain; restricting use of automatic dialing-
5 announcing devices; amending K.S.A. 2018 Supp. 50-670 and
6 repealing the existing section.

7
8 *Be it enacted by the Legislature of the State of Kansas:*

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

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

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

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

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

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

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

35 (4) "Telephone solicitor" means any natural person, firm,
36 organization, partnership, association or corporation who makes or causes

1 to be made a consumer telephone call, including, but not limited to, calls
2 made by use of automatic dialing-announcing device.

3 (5) "Automatic dialing-announcing device" means any user terminal
4 equipment ~~which~~ *that*:

5 (A) When connected to a telephone line *or network that facilitates*
6 *the transmission of telephone messages or two-way video or voice*
7 *messages*, can dial *or call*, with or without manual assistance, telephone
8 numbers ~~which~~ *that* have been stored or programmed in the device or are
9 produced or selected by a random or sequential number generator; or

10 (B) when connected to a telephone line *or network that facilitates the*
11 *transmission of telephone messages or two-way video or voice messages*,
12 can disseminate a recorded message to the telephone number called, either
13 with or without manual assistance.

14 (6) "Negative response" means a statement from a consumer
15 indicating the consumer does not wish to listen to the sales presentation or
16 participate in the solicitation presented in the consumer telephone call.

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

25 (b) Any telephone solicitor who makes an unsolicited consumer
26 telephone call shall:

27 (1) Identify themselves;

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

29 (3) identify the purpose of the call immediately upon making contact
30 by telephone with the person who is the object of the telephone
31 solicitation;

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

34 (5) hang up the phone, or in the case of an automatic dialing-
35 announcing device operator, disconnect the automatic dialing-announcing
36 device from the telephone line within 25 seconds of the termination of the
37 call by the person being called; and

38 (6) *ensure* a live operator or an automated dialing-announcing device
39 shall answer the line within five seconds of the beginning of the call. If
40 answered by automated dialing-announcing device, the message provided
41 shall include only the information required in subsection (b)(1) and (2),
42 but shall not contain any unsolicited advertisement.

43 (c) *No person or entity shall use an automatic dialing-announcing*

1 device to make calls to the residence or mobile telephone number of a
2 person unless:

3 (1) (A) The person being called has knowingly or voluntarily
4 requested, consented to, permitted or authorized receipt of such calls;

5 (B) when contact is made using such device, any artificial or
6 prerecorded message to be disseminated by such device shall be
7 immediately preceded by a live operator who shall obtain the person's
8 consent before the message is delivered;

9 (C) such device is used to make calls that are primarily in connection
10 with an existing debt or contract, payment or performance of which has
11 not been completed at the time of such call; or

12 (D) such device is used to call persons who have an established
13 business relationship with the person or entity initiating such call,
14 including, but not limited to, utility service providers, telecommunications
15 service providers, internet service providers and television service
16 providers; and

17 (2) the person being called receives such telephone call after 9:00
18 a.m. and before 8:00 p.m..

19 (d) No person or entity shall use an automatic dialing-announcing
20 device to make calls to any of the following:

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

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

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

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

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

32 (6) a law enforcement agency; or

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

34 ~~(e)~~(e) A telephone solicitor shall not withhold the display of the
35 telephone solicitor's telephone number from a caller identification service
36 when that number is being used for telemarketing purposes.

37 ~~(f)~~(f) A telephone solicitor shall not transmit any written information
38 by facsimile machine or computer to a consumer after the consumer
39 requests orally or in writing that such transmissions cease.

40 ~~(g)~~(g) A telephone solicitor shall not obtain by use of any professional
41 delivery, courier or other pickup service receipt or possession of a
42 consumer's payment unless the goods are delivered with the opportunity to
43 inspect before any payment is collected.

1 (h) (1) No person or entity shall sell, rent or convey any interest in a
2 telephone number to any out-of-state person or entity unless such
3 telephone number is listed or available from directory assistance to the
4 general public so that a member of the general public could determine the
5 source of the telephone number by contacting their telecommunications
6 provider.

7 (2) The provisions of paragraph (1) shall not apply if such telephone
8 number is:

9 (A) Used to provide access to tone-controlled devices for which
10 restricted access to the numbering resource is justified for security or
11 functional purposes;

12 (B) used for any authorized activity of a law enforcement agency; or

13 (C) required to be unlisted by court order.

14 (i) (1) No person or entity shall, in connection with any
15 telecommunications service or IP-enabled voice service, cause any caller
16 identification service to knowingly transmit misleading or inaccurate
17 caller identification information with the intent to defraud, cause harm or
18 wrongfully obtain anything of value.

19 (2) Nothing in this subsection shall be construed to prevent or restrict
20 any person or entity from blocking the capability of any caller
21 identification service to transmit caller identification information.

22 (3) The provisions of paragraph (1) shall not apply:

23 (A) To any authorized activity of a law enforcement agency; or

24 (B) when a court order specifically authorizes the use of caller
25 identification manipulation.

26 ~~(j)~~(j) Except as provided in subsection (h), local exchange carriers
27 and telecommunications carriers shall not be responsible for the
28 enforcement of the provisions of this section.

29 ~~(k)~~(k) Any violation of this section is an unconscionable act or
30 practice under the Kansas consumer protection act.

31 ~~(l)~~(l) This section shall be part of and supplemental to the Kansas
32 consumer protection act.

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

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